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THE JOURNAL OF PUBLIC AND INTERNATIONAL AFFAIRS

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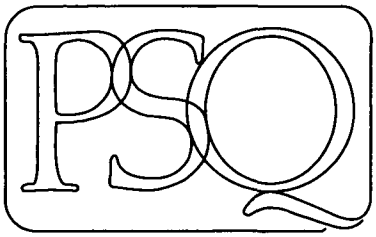

POLITICAL SCIENCE QUARTERLY

THE JOURNAL OF PUBLIC AND INTERNATIONAL AFFAIRS

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From the Editor:

In this issue . . .

ROBERT JERVIS argues that the Bush doctrine presents a highly ambitious conception of U.S. foreign policy. Based on the premise that this is a period of great threat and great opportunity, the doctrine calls for the assertion and expansion of American power in service of hegemony. He concludes that this assertion and expansion is not likely to succeed.

LOUIS FISHER analyzes the performance of U.S. political institutions in authorizing the war against Iraq in October 2002. He finds that the Bush administration failed to provide correct information to Congress to justify the war and relied on tenuous claims that were discredited on many occasions. He also argues that Congress failed in its institutional duties both by voting on the Iraq resolution without sufficient evidence and by drafting the legislation in such a way that it left the power to initiate war in the hands of the President, exactly what the Framers had tried to prevent.

DANIEL SABBAGH contends that it is the visibility of affirmative action decisions that triggers negative side effects as far as its underlying goal of deracializing American society is concerned. He suggests that some of the most important developments in the Supreme Court's case law can be understood as reflecting a tendency to minimize those negative side effects by dissimulating the policy's most distinctive features.

WILLIAM SAFRAN examines the modifications of France's traditional Jacobin republicanism in the direction of pluralism. He shows how this development has been reflected in the growth of "polyarchic" patterns as manifested in the competition between national and local governmental authorities, on the one hand, and public and private sectors in economics, education, and the media, on the other.

CAROLINE J. TOLBERT draws a parallel between the Progressive era and the last two decades of the twentieth century to look at the role of direct democracy in American political reform. She argues that ballot issues at the state level may function as an adaptive mechanism, realigning institutions of representative government to new social and economic functions.

HUGH HECLO reviews three books that seek to explain the decline of voting in the United States. The results of his analysis paint a grim but not hopeless portrayal of modern American citizenship.

DEMETRIOS JAMES CARALEY

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Understanding the Bush Doctrine

ROBERT JERVIS

The invasion of Iraq, although important in itself, is even more noteworthy as a manifestation of the Bush doctrine. In a sharp break from the President's pre-September 11 views that saw American leadership, and especially its use of force, restricted to defending narrow and traditional vital interests, he has enunciated a far-reaching program that calls for something very much like an empire.[1]

The doctrine has four elements: a strong belief in the importance of a state's domestic regime in determining its foreign policy and the related judgment that this is an opportune time to transform international politics; the perception of great threats that can be defeated only by new and vigorous policies, most notably preventive war; a willingness to act unilaterally when necessary; and, as both a cause and a summary of these beliefs, an overriding sense that peace and stability require the United States to assert its primacy in world politics. It is, of course, possible that I am exaggerating and that what we are seeing is mostly an elaborate rationale for the overthrow of Saddam Hussein that will have little relevance beyond that. I think the doctrine is real, however. It is quite articulate, and American policy since the end of the military campaign has been consistent with it. Furthermore, there is a tendency for people to act in accord with the explanations they have given for their own behavior, which means that the doctrine could guide behavior even if it were originally a rationalization.[2]

[1] For somewhat similar analyses, but with quite different evaluations, see James Chace, "Imperial America and the Common Interest," *World Policy* 19 (Spring 2002): 1–9; Charles Krauthammer, "The Unipolar Moment Revisited," *National Interest* 70 (Winter 2002/03): 5–17; Stephen Peter Rosen, "An Empire, If You Can Keep It," ibid 71 (Spring 2003): 51–62; Robert Art, *A Grand Strategy for America* (Ithaca, NY: Cornell University Press, 2003), 87–92.

[2] See Deborah Larson, *Origins of Containment: A Psychological Explanation* (Princeton: Princeton University Press, 1985), which draws on Bem's theory of self-perception. See Daryl Bem, "Self-Perception Theory" in Leonard Berkowitz, ed., *Advances in Experimental Social Psychology*, vol. 6 (New York: Academic Press, 1972), 1–62.

ROBERT JERVIS, Adlai E. Stevenson Professor of International Politics at Columbia University, served as president of the American Political Science Association in 2000–01. He is the author of numerous books and articles on international politics. His most recent book is *System Effects: Complexity in Political and Social Life.*

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I will describe, explain, and evaluate the doctrine. These three tasks are hard to separate. Evaluation and explanation are particularly and perhaps disturbingly close. To see the doctrine as a response to an unusual external environment may verge on endorsing it, especially for Realists who both oppose the doctrine and see states as rational. In the end, I believe it to be the product of idiosyncratic and structural factors, both a normal reaction to an abnormal situation and a policy that is likely to bring grief to the world and the United States. The United States may be only the latest in a long line of countries that is unable to place sensible limits on its fears and aspirations.[3]

Democracy and Liberalism

This is not to say that the doctrine is entirely consistent, and one component may not fit well with the rest despite receiving pride of place in the "The National Security Strategy of the U.S.," which starts thusly: "The great struggles of the twentieth century between liberty and totalitarianism ended with a decisive victory for the forces of freedom—and a single sustainable model for national success: freedom, democracy, and free enterprise." The spread of these values opens the path to "make the world not just safer but better," a "path [that] is not America's alone. It is open to all."[4] This taps deep American beliefs and traditions enunciated by Woodrow Wilson and echoed by Bill Clinton, and it is linked to the belief, common among powerful states, that its values are universal and their spread will benefit the entire world. Just as Wilson sought to "teach [the countries of Latin America] "to elect good men," so Bush will bring free markets and free elections to countries without them. This agenda horrifies Realists (and perhaps realists).[5] Some mid-level officials think this is window dressing; by contrast, John Gaddis sees it as the heart of the doctrine,[6] a view that is endorsed by other officials.

[3] Paul Kennedy, *The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000* (New York: Random House, 1987); Robert Gilpin, *War and Change in World Politics* (New York: Cambridge University Press, 1981); Geoffrey Parker, *The Grand Strategy of Philip II* (New Haven: Yale University Press, 1998).

[4] White House, "The National Security Strategy of the United States" (Washington, DC: September 2002), i, 1. Bush's West Point speech similarly declared: "Moral truth is the same in every culture, in every time, and in every place. . . . We are in a conflict between good and evil. . . . When it comes to the common rights and needs of men and women, there is no clash of civilizations." "Remarks by the President at 2002 Graduation Exercise of the Unites States Military Academy," White House Press Release, 1 June 2002, 3; Paul Allen, *Philip III and Pax Hispanica, 1598–1621: The Failure of Grand Strategy* (New Haven: Yale University Press, 2000).

[5] Thus, Samuel Huntington, who agrees that a state's foreign policy is strongly influenced by its domestic regime, argues that conflict can be reduced only by not pushing Western values on other societies. See his *The Clash of Civilizations and the Remaking of the World Order* (New York: Simon and Schuster, 1996).

[6] John Lewis Gaddis, "Bush's Security Strategy," *Foreign Policy* 133 (November/December 2002): 50–57.

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The administration's argument is that strong measures to spread democracy are needed and will be efficacious. Liberating Iraq will not only produce democracy there, but it will also encourage democracy in the rest of the Middle East. There is no incompatibility between Islam or any other culture and democracy; the example of political pluralism in one country will be emulated. The implicit belief is that democracy can take hold when the artificial obstacles to it are removed. Far from being the product of unusually propitious circumstances, a free and pluralist system is the "natural order" that will prevail unless something special intervenes.[7] Furthermore, more democracies will mean greater stability, peaceful relations with neighbors, and less terrorism, comforting claims that evidence indicates is questionable at best.[8] Would a democratic Iraq be stable? Would an Iraq that reflected the will of its people recognize Israel or renounce all claims to Kuwait? Would a democratic Palestinian state be more willing to live at peace with Israel than an authoritarian one, especially if it did not gain all of the territory lost in 1967? Previous experience also calls into question the links between democracy and free markets, each of which can readily undermine the other. But such doubts do not cloud official pronouncements or even the off-the-record comments of top officials. The United States now appears to have a faith-based foreign policy.

This or any other administration may not act on it. No American government has been willing to sacrifice stability and support of U.S. policy to honor democracy in countries like Algeria, Egypt, Saudi Arabia, and Pakistan.[9] But the current view does parallel Ronald Reagan's policy of not accepting a detente with the Union of Soviet Socialist Republics (USSR) that was limited to arms control and insisting on a larger agenda that included human rights within the Soviet Union and, thus, implicitly called for a new domestic regime. The Bush administration is heir to this tradition when it declares that any agreement with North Korea would have to address a range a problems in addition to nuclear weapons, including "the abominable way [the North] treats its people."[10] The argument is that, as in Iraq, regime change is necessary because tyrannical governments will always be prone to disregard agreements and coerce their neighbors just as they mistreat their own citizens. Notwithstanding their being Realists in their views about how states influence one another, Bush and his colleagues are Liberals in their beliefs about the sources of foreign policy.

[7] For the concept of natural order, see Stephen Toulmin, *Foresight and Understanding: An Enquiry into the Aims of Science* (Bloomington: Indiana University Press, 1961).

[8] Edward Mansfield and Jack Snyder, *Democratization and War* (Cambridge, MA: MIT Press, forthcoming).

[9] It can be argued that Carter's policy toward the shah's regime in Iran is an exception. There is something to this, but the conflict between his policy and stability is more apparent in retrospect than it was at the time.

[10] Quoted in David Sanger, "U.S. to Withdraw From Arms Accord With North Korea," *New York Times*, 20 October 2002.

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Consistent with liberalism, this perspective is highly optimistic in seeing the possibility of progress. A week after September 11, Bush is reported to have told one of his closest advisers: "We have an opportunity to restructure the world toward freedom, and we have to get it right." He expounded this theme in a formal speech marking the six-month anniversary of the attack: "When the terrorists are disrupted and scattered and discredited, . . . we will see then that the old and serious disputes can be settled within the bounds of reason, and goodwill, and mutual security. I see a peaceful world beyond the war on terror, and with courage and unity, we are building that world together."[11] In February 2002, the President responded to a reporter's question about the predictable French criticism of his policy by saying that "history has given us a unique opportunity to defend freedom. And we're going to seize the moment, and do it."[12] One month later, he declared, "We understand history has called us into action, and we are not going to miss that opportunity to make the world more peaceful and more free."[13]

The absence of any competing model for organizing societies noted at the start of the National Security document is part of the explanation for the optimism. Another is the expectation of a benign form of domino dynamics, as the replacement of the Iraqi regime is expected to embolden the forces of freedom and deter other potential disturbers of the peace. Before the war, Bush declared that when Saddam is overthrown "other regimes will be given a clear warning that support for terror will not be tolerated. Without this outside support for terrorism, Palestinians who are working for reform and long for democracy will be in a better position to choose new leaders—true leaders who strive for peace."[14] After the war, Bush reaffirmed his belief that "a free Iraq can be an example of reform and progress to all the Middle East."[15] Even some analysts like Thomas Friedman, who are skeptical of much of the administration's policy, believe that the demonstration effect of regime change in Iraq can be large and salutary.

The mechanisms by which these effects are expected to occur are not entirely clear. One involves establishing an American reputation for opposing tyranny. But the power of reputation is questioned by the Bush administration's skepticism toward deterrence, which works partly by this means. Another

[11] Quoted in Frank Bruni, "For President, a Mission and a Role in History," ibid. 22 September 2001; "President Thanks World Coalition for Anti-Terrorism Efforts," White House Press Release, 11 March 2002, 3–4; also see "Remarks by the President at 2002 Graduation Exercise," 4–5.

[12] "President Bush, Prime Minister Koizumi Hold Press Conference," White House Press Release, 18 February 2002, 6.

[13] "President, Vice President Discuss the Middle East," White House Press Release, 21 March 2002, 2.

[14] Speech to the American Enterprise Institute, 26 February 2003. For a general discussion of the administration's optimism about the effects of overthrowing Saddam on the Middle East, see Philip Gordon, "Bush's Middle East Vision," *Survival* 45 (Spring 2003): 155–165.

[15] Quoted in David Sanger and Thom Shanker, "Bush Says Regime in Iraq is No More; Syria is Penalized," *New York Times*, 16 April 2003.

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mechanism is the power of example: people will see that tyrants are not invulnerable and that democracy can provide a better life. But seeing one dictator overthrown (not an unusual occurrence) may not have much influence on others. The dynamics within the Soviet bloc in 1989–1991 were a product of special conditions, and while contagion, tipping, and positive feedback do occur, so does negative feedback. We may hope for the former, but it is unreasonable to expect it.

Threat and Preventive War

The second pillar of the Bush doctrine is that we live in a time not only of opportunity, but also of great threat posed primarily by terrorists and rogue states. Optimism and pessimism are linked in the belief that if the United States does not make the world better, it will grow more dangerous. As Bush said in his West Point address of 1 June 2002: "Today our enemies see weapons of mass destruction as weapons of choice. For rogue states these weapons are tools of intimidation and military aggression against their neighbors. These weapons may also allow these states to attempt to blackmail the U.S. and our allies to prevent us from deterring or repelling the aggressive behavior of rogue states. Such states also see these weapons as their best means of overcoming the conventional superiority of the U.S."[16]

These threats cannot be contained by deterrence. Terrorists are fanatics, and there is nothing that they value that we can hold at risk; rogues like Iraq are risk-acceptant and accident prone. The heightened sense of vulnerability increases the dissatisfaction with deterrence, but it is noteworthy that this stance taps into the longstanding Republican critique of many American Cold War policies. One wing of the party always sought defense rather than deterrence (or, to be more precise, deterrence by denial instead of deterrence by punishment), and this was reflected in the search for escalation dominance, multiple nuclear options, and defense against ballistic missiles.[17]

Because even defense may not be possible against terrorists or rogues, the United States must be ready to wage preventive wars and to act "against . . . emerging threats before they are fully formed," as Bush puts it.[18] Prevention is not a new element in world politics, although Dale Copeland's important

[16] Also see White House, *National Strategy to Combat Weapons of Mass Destruction* (Washington, DC: December 2002), 1.

[17] It is no accident that the leading theorist of this school of thought, Albert Wohlstetter, trained and sponsored many of the driving figures of the Bush administration, such as Paul Wolfowitz and Richard Perle.

[18] Letter accompanying "National Security Strategy of the United States," ii. Calling this aspect of the doctrine as our policy against Iraq "preemptive," as the Bush administration does, is to do violence to the English language. No one thought that Iraq was about to attack anyone; rather, the argument was that Iraq and perhaps others are terrible menaces that eventually will do the United States great harm and must be dealt with as soon as possible, before the harm has been inflicted and while prophylactic actions can be taken at reasonable cost. For a study of cases, see Robert Litwak, "The New Calculus of Pre-emption," *Survival* 44 (Winter 2002–03): 53–79.

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treatment exaggerates its previous centrality.[19] Israel launched a preventive strike against the Iraqi nuclear program in 1981; during the Cold War, U.S. officials contemplated attacking the USSR and the Peoples' Republic of China (PRC) before they could develop robust nuclear capabilities.[20] The Monroe doctrine and westward expansion in the nineteenth century stemmed in part from the American desire to prevent any European power from establishing a presence that could menace the United States.

The United States was a weak country at that time; now the preventive war doctrine is based on strength and on the associated desire to ensure the maintenance of American dominance. Critics argue that preventive wars are rarely necessary because deterrence can be effective and many threats are exaggerated or can be met with strong but less militarized policies. Libya, for example, once the leading rogue, now seems to be outside of the axis of evil. Otto von Bismarck called preventive wars "suicide for fear of death," and, although the disparity of power between the United States and its adversaries means this is no longer the case, the argument for such wars implies a high degree of confidence that the future will be bleak unless they are undertaken or at least a belief that this world will be worse than the likely one produced by the war.

This policy faces three large obstacles. First, by definition, the relevant information is hard to obtain because it involves predictions about threats that reside sometime in the future. Thus, while in retrospect it is easy to say that the Western allies should have stopped Hitler long before 1939, at the time it was far from clear that he would turn out to be such a menace. No one who reads Neville Chamberlain's speeches can believe that he was a fool. In some cases, a well-placed spy might be able to provide solid evidence that the other had to

[19] Dale Copeland, *The Origins of Major War* (Ithaca, NY: Cornell University Press, 2000); also see John Mearsheimer, *Tragedy of Great Power Politics* (New York: Norton, 2001). For important conceptual distinctions and propositions, see Jack Levy, "Declining Power and the Preventive Motivation for War," *World Politics* 40 (October 1987): 82–107; for a study that is skeptical of the general prevalence of preventive wars but presents one example, Jack Levy and Joseph Gochal, "Democracy and Preventive War: Israel and the 1996 Sinai Campaign," *Security Studies* 11 (Winter 2001/2): 1–49. On the U.S. experience, see Art, *A Grand Strategy for America*, 181–197. Randall Schweller argues that democratic states fight preventively only under very restrictive circumstances: "Domestic Structure and Preventive War: Are Democracies More Pacific?" *World Politics* 44 (January 1992): 235–269; he notes the unusual nature of the Israeli cases. For the argument that states are generally well served resisting the temptation to fight preventively, see Richard Betts, "Striking First: A History of Thankfully Lost Opportunities," *Ethics and International Affairs* 17 (2003): 17–24. For a review of power transition theory, which in one interpretation is driven by preventive motivation, see Jacek Kugler and Douglas Lemke, *Parity and War: Evaluations and Extensions of The War Ledger* (Ann Arbor: University of Michigan Press, 1996).

[20] Marc Trachtenberg, *History and Strategy* (Princeton: Princeton University Press, 1991), chap. 3; William Burr and Jeffrey Richelson, "Whether to 'Strangle the Baby in the Cradle': The United States and the Chinese Nuclear Program, 1960–64," *International Security* 25 (Winter 2000/01): 54–99. Gregory Mitrovich shows how much of American early Cold War policy was driven by the fear that it could not sustain a prolonged confrontation: *Undermining the Kremlin: America's Strategy to Subvert the Soviet Bloc, 1947–1956* (Ithaca, NY: Cornell University Press, 2000).

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be stopped, but in many other cases—perhaps including Nazi Germany—even this would not be sufficient, because leaders do not themselves know how they will act in the future. The Bush doctrine implies that the problem is not so difficult, because the state's foreign policy is shaped, if not determined, by its domestic political system. Thus, knowing that North Korea, Iran, and Syria are brutal dictatorships tells us that they will seek to dominate their neighbors, sponsor terrorism, and threaten the United States. But while the generalization that states that oppress their own people will disturb the international system fits many cases, it is far from universal, which means that such short-cuts to the assessment process are fallible. Second and relatedly, even information on capabilities and past behavior may be difficult to come by, as the case of Iraq shows. Saddam's links to terrorists were murky and remain subject to debate, and while much remains unclear, it seems that the United States and Britain not only publicly exaggerated, but also privately overestimated, the extent of his weapons of mass destruction (WMD) program.

Third, unless all challengers are deterred by the exercise of the doctrine in Iraq, preventive war will have to be repeated as other threats reach a similar threshold. Doing so will require sustained domestic, if not international, support, which is made less likely by the first two complications. The very nature of a preventive war means that the evidence is ambiguous and the supporting arguments are subject to rebuttal. If Britain and France had gone to war with Germany before 1939, large segments of the public would have believed that the war was not necessary. If it had gone badly, the public would have wanted to sue for peace; if it had gone well, public opinion would have questioned its wisdom. While it is too early to say how American opinion will view Saddam's overthrow (and opinion is likely to change over time), a degree of skepticism that will inhibit the repetition of this policy seems probable.

National leaders are aware of these difficulties and generally hesitate to take strong actions in the face of such uncertainty. While one common motive for war has been the belief that the situation will deteriorate unless the state acts strongly now, and indeed this kind of fear drives the security dilemma, leaders usually put off decisions if they can. They know that many potential threats will never eventuate or will be made worse by precipitous military action, and they are predisposed to postpone, to await further developments and information, to kick the can down the road. In rejecting this approach in Iraq, if not in North Korea, Bush and his colleagues are behaving unusually, although this does not mean they are wrong.

Part of the reason for their stance is the feeling of vulnerability and the consequent belief that the risks and costs of inaction are unacceptably high. Note one of the few lines that brought applause in Bush's Cincinnati speech of 7 October 2002 and that shows the powerful psychological link between September 11 and the drive to depose Saddam: "We will not live in fear." Taken literally, this makes no sense. Unfortunately, fear is often well founded. What it indicates is an understandable desire for a safer world, despite that fact that

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the United States did live in fear throughout the Cold War and survived quite well. But if the sentence has little logical meaning, the emotion it embodies is an understandable fear of fear, a drive to gain certainty, an impulse to assert control by acting.[21]

This reading of Bush's statement is consistent with my impression that many people who opposed invading Iraq before September 11, but altered their positions afterwards, had not taken terrorism terribly seriously before September 11, a category that includes George Bush.[22] Those who had studied the subject were, of course, surprised by the timing and method of the attacks, but not that they took place; they changed their beliefs only incrementally. But Bush frequently acknowledges, indeed stresses, that he was shocked by the assault, which greatly increased his feelings of danger and led him to feel that drastically different policies were necessary. As he put it in his Cincinnati speech: "On September 11th, 2001, America felt its vulnerability." It is no accident that this sentence comes between two paragraphs about the need to disarm Iraq. Three months later, in response to an accusation that he always wanted to invade Iraq, Bush replied: "prior to September 11, we were discussing smart sanctions. . . . After September 11, the doctrine of containment just doesn't hold any water. . . . My vision shifted dramatically after September 11, because I now realize the stakes, I realize the world has changed."[23] Secretary of Defense Donald Rumsfeld similarly explained that the United States "did not act in Iraq because dramatic new evidence of Iraq's pursuit of weapons of mass murder. We acted because we saw the existing evidence in a new light, through the prism of our experience on September 11."[24] The claim that some possibilities are unlikely enough to be put aside lost plausibility in face of the obvious retort: "What could be less likely than terrorists flying airplanes into the World Trade Center and the Pentagon?" During the Cold War, Bernard Brodie expressed his exasperation with wild suggestions about military actions the USSR might

[21] A minor illustration of the power of fear was the closing of a New York subway station when a first-year art student taped to the girders and walls thirty-seven black boxes with the word "fear" on them, an unlikely thing for a bomber to do. See Michael Kimmelman, "In New York, Art Is Crime, And Crime Becomes Art," *New York Times*, 18 December 2002. For a study of how people's willingness to sacrifice civil liberties are affected by their fear of a future attack, see Darren Davis and Brian Silver, "Civil Liberties vs. Security: Public Opinion in this Context of the Terrorist Attacks on America" (unpublished manuscript); Leonie Huddy, Stanley Feldman, Charles Taber, and Gallya Lahav, "The Politics of Threat: Cognitive and Affective Reactions to 9/11" (paper presented at the annual meeting of the American Political Science Association, Boston, 29 August–1 September 2002); Leonie Huddy, Stanley Feldman, Theresa Capelos, and Colin Provost, "The Consequences of Terrorism: Disentangling the Effects of Personal and National Threat," *Political Psychology* 23 (September 2002): 485–510. For a general theory of the impact of feelings of vulnerability on policy, see Charles Kupchan, *The Vulnerability of Empire* (Ithaca, NY: Cornell University Press, 1994).

[22] According to Robert Woodward, George Tenet believed that "Bush had been the least prepared of all of [the administration leaders] for the terrorist attacks." See *Bush at War* (New York: Simon and Schuster, 2002), 318. Before then, his administration had concentrated on Russia and the PRC.

[23] *New York Times*, 1 February 2003.

[24] Quoted in James Risen, David Sanger, and Thom Shanker, "In Sketchy Data, Trying to Gauge Iraq Threat," ibid., 20 July 2003.

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undertake: "All sorts of notions and propositions are churned out, and often presented for consideration with the prefatory words: 'It is conceivable that. . . .' Such words establish their own truth, for the fact that someone has conceived of whatever proposition follows is enough to establish that it is conceivable. Whether it is worth a second thought, however, is another matter."[25] Worst-case analysis is now hard to dismiss.

The fact that no one can guarantee that an adversary with WMD will not use them means that fear cannot be banished. Although administration officials exaggerated the danger that Saddam posed, they also revealed their true fears when they talked about the possibility that he could use WMD against the United States or its allies. At least some of them may have been insensitive to the magnitude of this possibility; what mattered was its very existence. Psychology plays an important role here because people value certainty and are willing to pay a high price to decrease the probability of a danger from slight to none.[26] Bush's choice of words declaring a formal end to the organized combat in Iraq was telling: "this much is certain: No terrorist network will gain weapons of mass destruction from the Iraqi regime."[27] Concomitantly, people often feel that uncertainty can be best eliminated by taking the initiative. As Bush put it in his letter accompanying the submission of his National Security Strategy, "In the new world we have entered, the only path to peace and security is the path of action." The body of the document declared that "The greater the threat, the greater is the risk of inaction."[28] In the past, a state could let a potential threat grow because it might not turn into a major menace. Now, if one follows this cautious path and the worst case does arise, the price will be prohibitive. Thus, Senator Orrin Hatch dismissed the argument that since the threat from Iraq was not imminent the United States could afford to rely on diplomacy and deterrence by saying, "Imminence becomes murkier in the era of terrorism and weapons of mass destruction."[29] It then makes sense to strike much sooner and more often, even though in some cases doing so will not have been necessary.

UNILATERALISM

The perceived need for preventive wars is linked to the fundamental unilateralism of the Bush doctrine, since it is hard to get a consensus for such strong

[25] Bernard Brodie, "The Development of Nuclear Strategy," *International Security* 2 (Spring 1978): 83.

[26] Daniel Kahneman and Amos Tversky, eds., *Choices, Values, and Frames* (New York: Cambridge University Press, 2000).

[27] "Transcript of President Bush's Remarks on the End of Major Combat in Iraq," *New York Times*, 2 March 2003. (Emphasis added.) He used a similar formulation three months later: "President Meets with Small Business Owners in New Jersey," 16 June 2003, White House Press Release.

[28] "National Security Strategy of the United States," ii, 15; also see "In President's Words: Free People Will Keep the Peace of the World," *New York Times*, 27 February 2003; "Bush's Speech on Iraq: 'Saddam Hussein and His Sons Must Leave," ibid., 18 March 2003; Tony Blair's statement quoted in Emma Daly, "Both Britain and Spain Dismiss Offer On Iraq Missiles," ibid., 1 March 2003.

[29] Quoted in Carl Hulse, "Senate Republicans Back Bush's Iraq Policy, as Democrats Call it Rash and Bullying," ibid., 8 March 2003.

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actions and other states have every reason to let the dominant power carry the full burden.[30] Unilaterialism also has deep roots in the non-northeastern parts of the Republican party, was well represented in the Reagan administration, draws on long-standing American political traditions, and was part of Bush's outlook before September 11. Of course, assistance from others was needed in Afghanistan and Iraq. But these should not be mistaken for joint ventures, as the United States did not bend its policy to meet others' preferences. In stressing that the United States is building coalitions in the plural rather than an alliance (the mission determines the coalition, in Rumsfeld's phrase), American leaders have made it clear that they will forego the participation of any particular country rather than compromise.

The seeming exception of policy toward North Korea, in which the United States refuses to negotiate bilaterally and insists that the problem is one for the international community, is actually consistent with this approach. Others were not consulted on the policy and in fact resisted it. The obvious purpose of the American stance was to get others to apply pressure on the adversary. While this is a legitimate aim and, perhaps, the best policy, it is one the United States has selected on its own. Multilaterialism here is purely instrumental, a way to avoid giving what the United States regards as a concession to North Korea and a means of further weakening and isolating it, despite others believing this is unwise.

Even before September 11, Bush displayed little willingness to cater to world public opinion or to heed the cries of outrage from European countries as the United States interpreted its interests and the interests of the world in its own way. Thus, the Bush administration walked away from the Kyoto treaty, the International Criminal Court, and the protocol implementing the ban on biological weapons rather than try to work within these frameworks and modify them. The United States also ignored European criticisms of its Middle Eastern policy. On a smaller scale, it forced out the heads of the Organization for the Prohibition of Chemical Weapons and the Intergovernmental Panel on Climate Change. In response to this kind of behavior, European diplomats can only say: "Big partners should consult with smaller partners."[31] The operative word is "should." When in the wake of the overthrow of Saddam, Chirac declares: "We are no longer in an era where one or two countries control the fate of another country," he describes the world as he would like it to be, not as it is.[32]

[30] One of those outside the government who helped formulate the Bush doctrine denies that it is unilateralist. See Philip Zelikow, "The Transformation of National Security," *National Interest* 71 (Spring 2003): 24–25.

[31] Quoted in Steven Erlanger, "Bush's Move On ABM Pact Gives Pause to Europeans," *New York Times*, 13 December 2001; also see Suzanne Daley, "Many in Europe Voice Worry that U.S. Will Not Consult Them," ibid., 31 January 2002; Erlanger, "Protests, and Friends Too, Await Bush in Europe," ibid., 22 May 2002; Elizabeth Becker, "U.S. Unilateralism Worries Trade Officials," ibid., 17 March 2003.

[32] Quoted in Karen DeYoung, "Chirac Moves To Repair United States Ties," *Washington Post*, 16 April 2003.

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The administration has defended each of its actions, but not its general stance. The most principled, persuasive, and perhaps correct defense is built around the difficulty in procuring public goods. As long as leadership is shared, very little will happen because no one actor will be willing to shoulder the costs and the responsibilities. "At this moment in history, if there is a problem, we're expected to deal with it," is how Bush explains it. "We are trying to lead the world," is what one administration official said when the United States blocked language in a UN declaration on child health that might be read as condoning abortion.[33] This is not entirely hypocritical: many of the countries that endorsed the Kyoto protocol had grave reservations but were unwilling to stand up to strongly committed domestic groups.

Real consultation is likely to produce inaction, as was true in 1993, when Clinton called for "lift and strike" in Yugoslavia (that is, lifting the arms embargo against Bosnia and striking Serbian forces). But because he believed in sharing power and was unwilling to move on his own, he sent Secretary of State Warren Christopher to ascertain European views. This multilateral and democratic procedure did not work because the Europeans did not want to be put on the spot; in the face of apparent American indecision, they refused to endorse such a strong policy. If the United States had informed the Europeans rather than consulted them, they probably would have complained, but gone along; what critics call unilateralism often is effective leadership. Could Yasir Arafat have been moved from his central position if the United States had sought consensus rather than staking out its own position? Bush could also argue that just as Reagan's ignoring the sophisticated European counsels to moderate his rhetoric led to the delegitimation of the Soviet system, so his insistence on confronting tyrants has slowly brought others around to his general perspective, if not to his particular policies.

In this context, the strong opposition of allies to overthrowing Saddam was an advantage as well as a disadvantage to Bush. While it exacted domestic costs, complicated the effort to rebuild Iraq, and perhaps fed Saddam's illusion that he could avoid a war, it gave the United States the opportunity to demonstrate that it would override strenuous objections from allies if this was necessary to reach its goals. While this horrified multilateralists, it showed that Bush was serious about his doctrine. When Kofi Annan declared that an American attack without Security Council endorsement "would not be in conformity with the [UN] charter," he may not have realized that for some members of the Bush administration this would be part of the point of the action.[34]

[33] Quoted in Bob Woodward interview with Bush in ibid., 19 November 2002; also see Woodward, *Bush at War*, 281; quoted in Somini Sengupta, "U.N. Forum Stalls on Sex Education and Abortion Rights," *New York Times*, 10 May 2002.

[34] Patrick Tylor and Felicity Barringer, "Annan Says U.S. Will Violate Charter if It Acts Without Approval," ibid., 11 March 2003.

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American Hegemony

The final element of the doctrine, which draws together the others, is the establishment of American hegemony, primacy, or empire.[35] In the Bush doctrine, there are no universal norms or rules governing all states.[36] On the contrary, order can be maintained only if the dominant power behaves quite differently from the others. Thus the administration is not worried that its preventive war doctrine or attacking Iraq without Security Council endorsement will set a precedent for others because the dictates do not bind the United States. Similarly, the United States sees no contradiction between expanding the ambit of nuclear weapons to threaten their employment even if others have not used WMD first on the one hand and a vigorous antiproliferation policy on the other. American security, world stability, and the spread of liberalism require the United States to act in ways others cannot and must not. This is not a double standard, but is what world order requires.

Hegemony is implied when the Nuclear Posture Review talks of dissuading future military competitors. At first glance, this seems to refer to Russia and China. But the point applies to the countries of Western Europe as well, either individually or as a unit. This was clear in the draft defense guidance written by Paul Wolfowitz for Dick Cheney at the end of the first Bush administration and also was implied by President George W. Bush when he declared to the graduating cadets at West Point: "America has, and intends to keep, military strengths beyond challenge—thereby making the destabilizing arms races of other eras pointless, and limiting rivalries to trade and other pursuits of peace."[37] This would mean not only sustaining such a high level of military

[35] Paul Schroeder sharply differentiates hegemony from empire, arguing that the former is much more benign and rests on a high degree of consent and respect for diverse interests: "Empire or Hegemony?" address given to the American Historical Association meeting, Chicago, 3 January 2003. I agree that distinctions are needed, but at this point both the terms and the developing American policy are unclear. I have a soft spot in my heart for primacy because it has the fewest connotations. Ten years ago I argued that the United States did not need to seek primacy (at least I was sensible enough to avoid saying whether the United States would be sensible): Jervis, "The Future of World Politics: Will it Resemble the Past?" *International Security* 16 (Winter 1991/92): 39–73; "International Primacy: Is the Game Worth the Candle?" ibid., 17 (Spring 1993): 52–67. For discussions about what an empire means today, whether it necessarily involves territorial control and how it can be maintained, see Rosen, "An Empire if You Can Keep It"; also see Kurth, "Migration and the Dynamics of Empire," *National Interest* 71 (Spring 2003): 5–16; and Anna Simons, "The Death of Conquest," ibid., 41–49.

[36] Only after World War I was lip-service paid to the concept that all states had equal rights. The current United States stance would be familiar to any nineteenth-century diplomat.

[37] "Remarks by the President at 2002 Graduation Exercise," 4. The Wolfowitz draft is summarized in stories in the *New York Times*, 8 March and 24 May 1992. Also see Zalmay Khalilzad, *From Containment to Global Leadership? America and the World After the Cold War* (Santa Monica, CA: RAND, 1995); and Robert Kagan and William Kristol, eds., *Present Dangers: Crisis and Opportunity in American Foreign and Defense Policy* (San Francisco: Encounter Books, 2000). This stance gives others incentives to develop asymmetric responses, of which terrorism is only the most obvious example. For possible PRC options, see Thomas Christensen, "Posing Problems Without Catching Up: China's Rise and Challenges for U.S. Security Policy," *International Security* 25 (Spring 2001): 5–40.

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spending that no other country or group of countries would be tempted to challenge it, but also using force on behalf of others so they will not need to develop potent military establishments of their own. In an implicit endorsement of hegemonic stability theory, the driving belief is that the world cannot afford to return to traditional multipolar balance of power politics, which would inevitably turn dangerous and destructive.[38]

Although many observers, myself included, were taken by surprise by this turn in American policy, we probably should not have been. It is consistent with standard patterns of international politics and with much previous American behavior in the Cold War. As early as the start of World War II, American leaders understood that the United States would emerge as the prime architect of the new international politics.[39] In the years before the Soviet Union was perceived as a deadly menace, American leaders understood that theirs would be the major role in maintaining peace and prosperity.

Even had the Soviet Union been more benign, instability, power vacuums, and the anticipation of future rivalries would have led the United States to use and increase the enormous power it had developed.[40] The task could not be done by the United States alone, however. The world was not strictly bipolar, especially because the United States sought to limit its defense spending, and the prime target of the conflict was the allegiance of West Europe. The United States knew that allied, and especially European, support was necessary to resist Soviet encroachments. Allies, fearing a return to American isolationism, reciprocally made great efforts to draw the United States in.[41] Although American power was central and consent often was forthcoming only because of veiled (or

[38] It is noteworthy that hegemonic stability theory comes with both a malign and a benign version. See Duncan Snidal, "The Limits of Hegemonic Stability Theory," *International Organization* 25 (Autumn 1985): 579–614; for the applicability of these theories to the pre-Bush post-Cold War world, see Michael Mastanduno, "Preserving the Unipolar Moment: Realist Theories and United States Grand Strategy after the Cold War," *International Security* 21 (Spring 1997): 49–88; see the exchange between Mark Sheetz and Mastanduno in ibid., 22 (Winter 1997/98): 168–174; Ethan Kapstein and Michael Mastanduno, eds., *Unipolar Politics: Realism and State Strategies After the Cold War* (New York: Columbia University Press, 1999); G. John Ikenberry, ed., *America Unrivaled: The Future of the Balance of Power* (Ithaca, NY: Cornell University Press, 2002).

[39] See, for example, David Reynolds, *From Munich to Pearl Harbor: Roosevelt's America and the Origins of the Second World War* (Chicago: Dee, 2001); Warren Kimball, *The Juggler: Franklin Roosevelt as Wartime Statesman* (Princeton: Princeton University Press, 1991).

[40] Melvyn Leffler, *A Preponderance of Power: National Security, the Truman Administration, and the Cold War* (Stanford, CA: Stanford University Press, 1992); Thomas Christensen, *Useful Adversaries: Grand Strategy, Domestic Mobilization, and Sino-American Conflict, 1947–1958* (Princeton: Princeton University Press, 1996); for the domestically imposed limits on this process, see Aaron Friedberg, *In the Shadow of the Garrison State: America's Anti-Statism and Its Cold War Grand Strategy* (Princeton: Princeton University Press, 2000); Michael Hogan, *A Cross of Iron: Harry S. Truman and the Origins of the National Security State, 1945–1954* (New York: Cambridge University Press, 1998).

[41] Geir Lunstestad, "Empire by Invitation? The United States and Western Europe, 1945–1952," *Journal of Peace Research* 23 (September 1986): 263–277; James McAllister, *No Exit: America and the German Problem, 1943–1954* (Ithaca, NY: Cornell University Press, 2002).

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not so veiled) rewards and threats, on fundamental issues the United States had to take allied interests and views to heart. Thus, Charles Maier exaggerates only slightly when he refers to "consensual American hegemony" within the West.[42]

As Europe stabilized and the American deterrent force became concentrated in intercontinental bombers and missiles, the need for allies, although still considerable, diminished. The United States could rebuff Britain and France at Suez in a way that it could not have done five years earlier. Twenty-five years later, Reagan could pay even less heed to allied wishes than Eisenhower had. Of course, the United States could not do everything it wanted. Not only was it restrained by Soviet power, but to go it alone would have alienated domestic opinion, risked policy setbacks, and endangered an international economic system already under great pressure. But the degree to which the United States sought consensus and respected allied desires varied from issue to issue and president to president. Above a significant but limited minimum level, cooperation with allies had become a matter of choice, not necessity.

The required minimum level of cooperation decreased with the end of the Cold War and the emergence of unipolarity. The United States now has a greater share of world power than any state since the beginning of the state system, and it is not likely to lose this position in the foreseeable future.[43] Before the first Bush's presidency, the United States used a mixture of carrots and sticks and pursued sometimes narrower but often broader conceptions of its interest. Clinton, and Bush before him, cultivated allies and worked hard to maintain large coalitions. Most scholars approve of this mode of behavior, seeing it as the best if not the only way for the United States to secure desired behavior from others, minimize the costs to itself, and most smoothly manage a complex and contentious world.[44] But the choice of this approach was indeed

[42] Charles Maier, *In Search of Stability: Explorations in Historical Political Economy* (New York: Cambridge University Press, 1987), 148. Also see John Lewis Gaddis, *We Now Know: Rethinking Cold War History* (New York: Oxford University Press, 1997); and Thomas Risse-Kappen, *Cooperation Among Democracies: The European Influence on U.S. Foreign Policy* (Princeton: Princeton University Press, 1995).

[43] William Wohlforth, "The Stability of a Unipolar World," *International Security* 24 (Summer 1999): 5–41; see also Kenneth Waltz, "Structural Realism After the Cold War," ibid. 25 (Summer 2000): 5–41. For a dissenting view, see Immanuel Wallerstein, "The Eagle Has Crash Landed," *Foreign Policy* 131 (July/August 2002): 60–68. The well-crafted argument by Robert Kudrle that the United States does not always gets its way even on some important issues is correct, but I think does not contradict the basic structural point: "Hegemony Strikes Out: The U.S. Global Role in Anti-Trust, Tax Evasion, and Illegal Immigration," *International Studies Perspectives* 4 (February 2003): 52–71.

[44] See, for example, G. John Ikenberry, "After September 11: America's Grand Strategy and International Order in the Age of Terror," *Survival* 43 (Winter 2001–2002): 19–34; Ikenberry, *After Victory: Institutions, Strategic Restraint, and the Rebuilding of Order After Major War* (Princeton: Princeton University Press, 2000); John Gerard Ruggie, *Winning the Peace: America and the New World Order* (New York: Columbia University Press, 1996); Joseph Nye, *The Paradox of American Power: Why the World's Only Superpower Can't Go It Alone* (New York: Oxford University Press, 2002); John Steinbrunner, *Principles of Global Security* (Washington, DC: Brookings Institution, 2000). More popular treatments are Clyde Prestowitz, *Rogue Nation: American Unilateralism and the Failure of Good Intentions* (New York: Basic Books, 2003); and Michael Hirsh, *At War With Ourselves: Why America Is Squandering Its Chance to Build a Better World* (New York: Oxford University Press, 2003).

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a choice, revocable upon the appearance of changed circumstances and a different leader. The structure of world power meant that there was always a possibility that the United States would act on its own.

Until recently, however, it did not seem clear that the United States would in fact behave in a highly unilateral fashion and assert its primacy. The new American stance was precipitated, if not caused by, the interaction between the terrorist attacks and the election of George W. Bush, who brought to the office a more unilateral outlook than his predecessor and his domestic opponents. Bush's response to September 11 may parallel his earlier religious conversion and owe something to his religious beliefs, especially in his propensity to see the struggle as one between good and evil. There is reason to believe that just as his coming to Christ gave meaning to his previously aimless and dissolute personal life, so the war on terrorism has become, not only the defining characteristic of his foreign policy, but also his sacred mission. An associate of the President reports: "I believe the president was sincere, after 9/11, thinking 'This is what I was put on this earth for.'"[45] We can only speculate on what President Al Gore would have done. My estimate is that he would have invaded Afghanistan, but not proceeded against Iraq; nor would he have moved away from treaties and other arrangements over a wide range of issues. To some extent, the current assertion of strong American hegemony may be an accident.

But it was an accident waiting to happen. To start with, there are structural reasons to have expected a large terrorist attack. Bin Laden had attacked American interests abroad and from early on sought to strike the homeland. His enmity stemmed primarily from the establishment of U.S. bases in Saudi Arabia, which was a product of America's worldwide responsibilities. Ironically, the overthrow of Saddam is likely to permit the United States to reduce its presence in Saudi Arabia, although I doubt if bin Laden expected this result to follow from his attack or that he will now be satisfied. Furthermore, al Qaeda was not the only group targeting the United States; as Richard Betts has argued, terrorism is the obvious weapon of weak actors against the leading state.[46]

Even without terrorism, both internal and structural factors predisposed the United States to assert its dominance. I think structural factors are more important, but it is almost a truism of the history of American foreign relations that the United States rarely if ever engages in deeply cooperative ventures with equals.[47] Unlike the European states who were surrounded by peers, once

[45] Quoted in James Harding, "Conflicting Views From Two Bush Camps," *Financial Times*, 20 March 2003; for a perceptive analysis, see Bruni, "For President, a Mission and a Role in History." Also see Woodward, *Bush at War*, 102, 205, 281.

[46] Richard Betts, "The Soft Underbelly of American Primacy: Tactical Advantages of Terror," *Political Science Quarterly* 117 (Spring 2002): 19–36.

[47] See, for example, Jesse Helms's defense of unilaterialism as the only way consistent with American interests and traditions: "American Sovereignty and the UN," *National Interest* 62 (Winter 2000/01): 31–34. For a discussion of historical, sociological, and geographical sources of the moralistic outlook in American foreign policy, see Arnold Wolfers, *Discord and Collaboration* (Baltimore: Johns Hopkins University Press, 1962), chap. 15; and Louis Hartz, *The Liberal Tradition in America* (New York: Harcourt, Brace, 1955), chap. 11. For a discussion of current U.S. policy in terms of its self-image as an exceptional state, see Stanley Hoffmann, "The High and the Mighty," *American Prospect* 13 (January 2003): 28–31.

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the United States had established its dominance first over its neighbors and then over the rest of the New World, it had great choice about the terms on which it would work with others. Thus, when the United States intervened in World War I, it insisted that the coalition be called the "Allied and Associated Powers"—that is, it was an associate with freedom of action, not an ally. The structure of the American government, its weak party system, its domestic diversity, and its political traditions, all make sustained cooperation difficult. It would be an exaggeration to say that unilateralism is the American way of foreign policy, but there certainly is a strong pull in this direction.

More importantly, the United States may be acting like a normal state that has gained a position of dominance.[48] There are four facets to this argument. First and most general is the core of the Realist outlook that power is checked most effectively and often only by counterbalancing power. It follows that states that are not subject to external restraints tend to feel few restraints at all. As Edmund Burke put it, in a position endorsed by Hans Morgenthau: "I dread our *own* power and our *own* ambition; I dread our being too much dreaded. It is ridiculous to say that we are not men, and that, as men, we shall never wish to aggrandize ourselves."[49] With this as one of his driving ideas, Kenneth Waltz saw the likelihood of current behavior from the start of the post-Cold War era:

> The powerful state may, and the United States does, think of itself as acting for the sake of peace, justice, and well-being in the world. But these terms will be defined to the liking of the powerful, which may conflict with the preferences and the interests of others. In international politics, overwhelming power repels and leads others to try to balance against it. With benign intent, the United States has behaved, and until its power is brought into a semblance of balance, will continue to behave in ways that annoy and frighten others.[50]

Parts of the Bush doctrine are unique to the circumstances, but it is the exception rather than the rule for states to stay on the path of moderation when others do not force them to do so.[51]

[48] Thus, it is not entirely surprising that many of the beliefs mustered in support of United States policy toward Iraq parallel those held by European expansionists in earlier eras: Jack Snyder, "Imperial Temptations," *National Interest* 71 (Spring 2003): 29–40.

[49] Quoted in Hans Morgenthau, *Politics Among Nations*, 5th ed. (New York: Knopf, 1978), 169–170. (Emphasis in the original.)

[50] Kenneth Waltz, "America as a Model for the World? A Foreign Policy Perspective," *PS: Political Science and Politics* 24 (December 1991): 69; also see Waltz's discussion of the Gulf War: "A Necessary War?" in Harry Kriesler, ed., *Confrontation in the Gulf* (Berkeley, CA: Institute of International Studies, 1992), 59–65. Charles Krauthammer also expected this kind of behavior, but believed that it will serve the world as well as the American interests. Krauthammer, "The Unipolar Moment," *Foreign Affairs, America and the World, 1990–91* 70 (no. 1, 23–33); also see Krauthammer, "The Unipolar Moment Revisited." For a critical analysis, see Chace, "Imperial America and the Common Interest." As Waltz noted much earlier, even William Fulbright, while decrying the arrogance of American power, said that the United States could and should "lead the world in an effort to change the nature of its politics": quoted in *Theory of International Politics* (Reading, MA: Addison-Wesley, 1979), 201.

[51] Alexander Wendt and, more persuasively, Paul Schroeder, would disagree or at least modify this generalization, arguing that prevailing ideas can and have led to more moderate and consensual behav-

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Second, states' definitions of their interests tend to expand as their power does.[52] It then becomes worth pursuing a whole host of objectives that were out of reach when the state's security was in doubt and all efforts had to be directed to primary objectives. Under the new circumstances, states seek what Arnold Wolfers called "milieu goals."[53] The hope of spreading democracy and liberalism throughout the world has always been an American goal, but the lack of a peer competitor now makes it more realistic—although perhaps not very realistic—to actively strive for it. Seen in this light, the administration's perception that this is a time of great opportunity in the Middle East is the product, not so much of the special circumstances in the region, but of the enormous resources at America's disposal.

More specifically, the quick American victory in Afghanistan probably contributed to the expansion of American goals. Likewise, the easy military victory in Iraq, providing the occupation can be brought to a successful conclusion, will encourage the pursuit of a wider agenda, if not threatening force against other tyrants ("moving down the list," in the current phrase). Bush's initial speech after September 11 declared war on terrorists "with a global reach." This was ambitious, but at least the restriction to these kinds of terrorists meant that many others were not of concern. The modifier was dropped in the wake of Afghanistan, however. Not only did rhetoric shift to seeing terrorism in general as a menace to civilization and "the new totalitarian threat,"[54] but the United States sent first military trainers and then a combat unit to the Philippines to attack guerrillas who posed only a minimal threat to Americans and who have no significant links to al Qaeda. Furthermore, at least up until a point, the exercise of power can increase power as well as interests. I do not think that the desire to control a large supply of oil was significant motivation for the Iraqi war, but it will give the United States an additional instrument of influence.

A third structural explanation for American behavior is that increased relative power brings with it new fears. The reasons are both objective and subjec-

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ior: Wendt, *Social Theory of International Politics* (New York: Cambridge University Press, 1999); Schroeder, *The Transformation of European Politics, 1763–1848* (New York: Oxford University Press, 1994); and "Does the History of International Politics Go Anywhere?" in David Wetzel and Theodore Hamerow, eds., *International Politics and German History* (Westport, CT: Praeger, 1997), 15–36. This is a central question of international politics and history that I cannot fully discuss here, but believe that at least the mild statement that unbalanced power is dangerous can easily be sustained.

[52] See, for example, Fareed Zakaria, "Realism and Domestic Politics: A Review Essay," *International Security* 17 (Summer 1992): 177–198; Robert Tucker, "The Radical Critique Assessed" in Tucker, *The Radical Left and American Foreign Policy* (Baltimore: Johns Hopkins University Press, 1971), 69–77, 106–111. For a discussion of alternative possibilities suggested by American history, see Edward Rhodes, "The Imperial Logic of Bush's Liberal Agenda," *Survival* 45 (Spring 2003): 131–154.

[53] Wolfers, *Discord and Collaboration*, chap. 5.

[54] "President Thanks World Coalition for Anti-Terrorism Efforts"; David Sanger, "In Reichstag, Bush Condemns Terror as New Despotism," *New York Times*, 24 May 2002. Also see "Remarks by President at 2002 Graduation Exercise." The question of how broad the target should be was debated within the administration from the start, with Bush initially insisting on a focus on al Qaeda: Woodward, *Bush at War*.

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tive. As Wolfers notes in his classic essay on "National Security as Ambiguous Symbol," the latter can diverge from the former.[55] In one manifestation of this, as major threats disappear, people psychologically elevate ones that were previously seen as quite manageable.[56] People now seem to be as worried as they were during the height of the Cold War despite the fact that a terrorist or rogue attack, even with WMD, could cause only a small fraction of a possible World War III's devastation. But there is more to it than psychology. A dominant state acquires an enormous stake in the world order, and interests spread throughout the globe. Most countries are primarily concerned with what happens in their immediate neighborhoods; the world is the hegemon's neighborhood, and it is not only hubris that leads it to be concerned with anything that happens anywhere. The result is a fusion of narrow and broad self-interest. At a point when most analysts were worried about the decline of American power, not its excesses, Waltz noted that for the United States, "like some earlier great powers. . . . the interest of the country in security came to be identified with the maintenance of a certain world order. For countries at the top, this is predictable behavior. . . . Once a state's interests reach a certain extent, they become self-reinforcing."[57]

The historian John S. Galbraith explored the related dynamic of the "turbulent frontier" that produced the unintended expansion of colonialism. As a European power gained an enclave in Africa or Asia, usually along the coast or river, it also gained an unpacified boundary that had to be policed. This led to further expansion of influence and often of settlement, and this in turn produced a new area that had to be protected and a new zone of threat.[58] There were few natural limits to this process. There are not likely to be many now. The wars in Afghanistan and Iraq have led to the establishment of U.S. bases and security commitments in central Asia, an area previously beyond reach. It is not hard to imagine how the United States could be drawn further into politics in the region and to find itself using force to oppose terrorist or guerrilla movements that arise there, perhaps in part in reaction to the American presence. The same dynamic could play out in Colombia.

The fourth facet can be seen as a broader conception of the previous point. As Realists stress, even states that find the status quo acceptable have to worry

[55] Wolfers, *Discord and Collaboration*, chap. 10.

[56] John Mueller, "The Catastrophe Quota: Trouble after the Cold War," *Journal of Conflict Resolution* 38 (September 1994): 355–375; also see Frederick Hartmann, *The Conservation of Enemies: A Study in Enmity* (Westport, CT: Greenwood Press, 1982).

[57] Waltz, *Theory of International Politics*, 200.

[58] John S. Galbraith, "The 'Turbulent Frontier' as a Factor in British Expansion," *Comparative Studies in Society and History* 2 (January 1960): 34–48; *Reluctant Empire: British Policy on the South African Frontier, 1834–1854* (Berkeley: University of California Press, 1963). Also see Ronald Robinson and John Gallager with Alice Denny, *Africa and the Victorians: The Official Mind of Imperialism* (London: Macmillan, 1961). A related imperial dynamic that is likely to recur is that turning a previously recalcitrant state into a client usually weakens it internally and requires further intervention.

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about the future.[59] The more an actor sees the current situation as satisfactory, the more it will expect the future to be worse. Psychology plays a role here too: prospect theory argues that actors are prone to accept great risks when they believe they will suffer losses unless they act boldly. The adoption of a preventive war doctrine may be a mistake, especially if taken too far, but is not foreign to normal state behavior. It appeals to states that have a valued position to maintain. However secure states are, only rarely can they be secure enough, and if they are currently very powerful, they will have strong reasons to act now to prevent a deterioration that could allow others to harm them in the future.[60]

All this means that under the Bush doctrine the United States is not a status quo power. Its motives may not be selfish, but the combination of power, fear, and perceived opportunity leads it to seek to reshape world politics and the societies of many of its members. This tracks with and extends traditional ideas in American foreign relations held by both liberals and conservatives who saw the United States as a revolutionary country. As the first modern democracy, the United States was founded on principles of equality, progress, and a government subordinate to civil society that, while initially being uniquely American, had universal applicability. Because a state's foreign policy is inseparable from its domestic regime, a safe and peaceful world required the spread of these arrangements.[61] Under current conditions of terrorism and WMD, tyrannical governments pose too much of a potential if not actual danger to be tolerated. The world cannot stand still. Without strong American intervention, the international environment will become more menacing to America and its values, but strong action can increase its security and produce a better world. In a process akin to the deep security dilemma,[62] in order to protect itself, the United States is impelled to act in a way that will increase, or at least bring to the surface, conflicts with others. Even if the prevailing situation is satisfactory, it cannot be maintained by purely defensive measures. Making the world safe for American democracy is believed to require that dictatorial regimes be banished, or at least kept from weapons of mass destruction. Although not mentioned in the pronouncements, the Bush doctrine is made possible by the existence of a secu-

[59] See esp., Copeland, *Origins of Major War*; Mearsheimer, *Tragedy of Great Power Politics.*

[60] Waltz (*Theory of International Politics*) sees this behavior as often self-defeating; Mearsheimer (*Tragedy of Great Power Politics*) implies that it is not; Copeland's position is somewhere in between.

[61] George W. Bush would endorse Wilson's claim that America's goal must be "the destruction of every arbitrary power anywhere in the world that can separately, secretly, and of its single choice disturb the peace of the world" just as he would join Clinton in calling for "the spread of his revolt [i.e., the American revolution], this liberation, to the great stage of the world itself!" "An Address at Mount Vernon," 4 July 1918, in Arthur Link et al., eds., *The Papers of Woodrow Wilson*, vol. 48, *May 13–July 17, 1918* (Princeton: Princeton University Press, 1985), 516–517.

[62] Robert Jervis, "Was the Cold War a Security Dilemma?" *Journal of Cold War History* 3 (Winter 2001): 36–60; also see Paul Roe, "Former Yugoslavia: The Security Dilemma That Never Was?" *European Journal of International Relations* 6 (September 2000): 373–393. The current combination of fear and hope that produces offensive actions for defensive motives resembles the combination that produced the pursuit of preponderance in the aftermath of World War II.

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rity community among the world's most powerful and developed states—the United States, Western Europe, and Japan.[63] The lack of fears of war among these countries allows the United States to focus on other dangers and to pursue other goals. Furthermore, the development of the security community gives the United States a position that it now wants to preserve.

Hegemony, Iraq, and Europe

This perspective on the Bush doctrine helps explain international disagreements about Iraq. Most accounts of the French opposition stress its preoccupation with glory and its traditional jealousy and disdain for the United States. Europe's resistance to the war is attributed to the peaceful world view produced by its success in overcoming historical rivalries and creating a law-governed society, summarized by the phrase "Americans are from Mars, the Europeans are from Venus."[64] Also frequently mentioned is the European aversion to the crude and bullying American style: "Bush is just a cowboy." There is something to these positions, but are Europeans really so averse to force and wedded to law? When faced with domestic terrorism, Germany and other European countries did not hesitate to employ unrestrained state power that John Ashcroft would envy, and their current treatment of minorities, especially Muslims, does not strike these populations as liberal. The French continue to intervene in Africa unilaterally, disregarded legal rulings to drop their ban on British beef, and join other European states in playing as fast and loose with trade regulations as does the United States. Most European states favored the war in Kosovo and supported the United States in Afghanistan; had they been attacked on September 11, they might not have maintained their aversion to the use of force.

Even more glaringly, the claims for a deep cultural divide overlook the fundamental difference between how Europe and the United States are placed in the international system. The fact that the latter is hegemonic has three implications. First, only the United States has the power to do anything about problems like Iraq; the others have incentives to ride free. Second, the large European states have every reason to be concerned about American hegemony and sufficient resources to seek to constrain it. This is not traditional power balancing, which is driven by security fears; the French are not afraid of an American attack, and the German worry is that the United States will withdraw too many of its troops. But they do fear that a world dominated by the United States would be one in which their values and interests would be served only at American sufferance. It is hardly surprising that an April 2002 poll showed that overwhelming majorities within many European countries felt that American policy toward Iraq and the Middle East in general was based "mainly on its own inter-

[63] Robert Jervis, "Theories of War in an Era of Leading Power Peace," *American Political Science Review* 96 (March 2003): 1–14.

[64] The best known statement of this position is Robert Kagan, *Of Paradise and Power: America and Europe in the New World Order* (New York: Knopf, 2003).

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ests."[65] The National Security Advisor, Condoleezza Rice, has forgotten her knowledge of basic international politics when she expresses her shock at discovering that "there were times that it appeared that American power was seen [by France and Germany] to be more dangerous than, perhaps, Saddam Hussein."[66] The United States may be correct that American dominance serves Europe and the world, but we should not be startled when others beg to differ. The United States probably is as benign a hegemon as the world has ever seen. Its large domestic market, relatively tolerant values, domestic diversity, and geographic isolation all are helpful. But a hegemon it remains, and by that very fact it must make others uneasy.

Third, the Europeans' stress on the need to go through the Security Council shows less their abstract attachment to law and world governance than their appreciation of power. France especially, but also Russia and China (two countries that are not from Venus), will gain enormously if they can establish the principle that large-scale force can be used only with the approval of the Council, of which they are permanent members. Security Council membership is one of the major resources at these countries' disposal. The statement of a Russian leader that "if someone tries to wage war on their own account . . . without an international mandate, it means all the world is confusion and a wild jungle"[67] would carry more moral weight if Russia did not have a veto in the mandate-granting body. If the Council were not central, French influence would be much diminished.

The United Kingdom does not readily fit this picture, of course. Structure always leaves room for choice, and Tony Blair told Parliament on 24 September 2002 that "it is an article of faith with me that the American relationship and our ability to partner [with] America in these difficult issues is of fundamental importance, not just to this country but to the wider world." Blair's personal views may be part of the explanation, but this has been the British stance ever since World War II, which resisted becoming too much a part of Europe and sought to maintain a major role in the world through supporting rather than opposing the United States. But only one ally can seek to have a "special relationship" with the hegemon, and Britain's having taken this role makes it harder for others to emulate it.

Structure also explains why many of the smaller European countries chose to support the United States in Iraq despite hostile public opinion. The dominance they fear most is not American, but Franco-German. The United States is more powerful, but France and Germany are closer and more likely to menace them.[68] Seeking a distant protector is a standard practice in international politics. That France and Germany resented the resulting opposition is no more

[65] Adam Clymer, "European Poll Faults U.S. for its Policy in the Mid East," *New York Times*, 19 April 2002.

[66] Quoted in David Sanger, "Witness to Auschwitz Evil, Bush Draws a Lesson," ibid., 1 June 2003.

[67] Quoted in John Tagliabue, "France and Russia Ready to Use Veto Against Iraq War," ibid., 6 March 2003.

[68] This is a version of Stephen Walt's argument that states balance against threat, not power: *The Origins of Alliances* (Ithaca, NY: Cornell University Press, 1987).

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surprising than the American dismissal of "old Europe," with the resulting parallel that while France and Germany bitterly decried the American effort to hustle them into line, they disparaged and bullied the East European states that sided with the United States—quite un-Venusian behavior.

Conclusion

Where we will go from here depends in part on unpredictable events such as economic shocks, the course of reconstruction in Iraq, the targets and success of future terrorist attacks, and the characteristics of the leaders that arise through diverse domestic processes. The war against Saddam, however, already marks out the path on which the United States is embarked and illuminates the links between preventive war and hegemony, which was much of the reason for the opposition at home and abroad. Bush's goals are extraordinarily ambitious, involving remaking not only international politics but recalcitrant societies as well, which is seen as an end in itself and a means to American security. For better or (and?) for worse, the United States has set itself tasks that prudent states would shun. As a result, it will be infringing on what adversaries, if not allies, see as their vital interests. Coercion and especially deterrence may be insufficient for these tasks because these instruments share with traditional diplomacy the desire to minimize conflict by limiting one's own claims to interests that others can afford to respect. States that seek more need to be highly assertive if not aggressive, which provides additional reasons to question the goals themselves. The beliefs of Bush and his colleagues that Saddam's regime would have been an unacceptable menace to American interests if it had been allowed to obtain nuclear weapons not only tell us about their fears for the limits of United States influence that might have been imposed, but also speak volumes about the expansive definition of United States interests that they hold.[69]

The war is hard to understand if the only objective was to disarm Saddam or even to remove him from power. Even had the inflated estimates of his WMD capability been accurate, the danger was simply too remote to justify the effort. But if changing the Iraqi regime was expected to bring democracy and stability to the Middle East, discourage tyrants and energize reformers throughout the world, and demonstrate the American willingness to provide a high degree of what it considers world order whether others like it or not, then as part of a larger project, the war makes sense. Those who find both the hopes and the fears excessive if not delusional agree with the great British statesman Lord Salisbury when he tried to bring some perspective to the Eastern Crisis of 1877–1878: "It has generally been acknowledged to be madness to go to war for an idea, but if anything is more unsatisfactory, it is to go to war against a nightmare."[70]

[69] I have discussed how Bush's policy toward Iraq does and does not fit with deterrence thinking in "The Confrontation Between Iraq and the United States: Implications for the Theory and Practice of Deterrence," *European Journal of International Relations* 9 (June 2003): 315–337.

[70] Quoted in R. W. Seton-Watson, *Disraeli, Gladstone, and the Eastern Question* (New York: Norton, 1972), 222.

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We can only speculate about the crucial question of whether the Bush doctrine will work. Contrary to the common impression, democracies, especially the United States, do not find it easy to sustain a clear line of policy when the external environment is not compelling. Domestic priorities ordinarily loom large, and few Americans think of their country as having an imperial mission. Wilsonianism may provide a substitute for the older European ideologies of a *mission civilisatrice* and the white man's burden, but since it rests on the assumption that its role will not only be noble but also popular, I am skeptical that it will endure if it meets much indigenous opposition from those who are supposed to benefit from it. Significant casualties will surely be corrosive, and when the going gets tough I think the United States will draw back.

Furthermore, while the United States is the strongest country in the world, its power is still subject to two familiar limitations: it is harder to build than to destroy, and success depends on others' decisions because their cooperation is necessary for the state to reach its goals. Of course, American military capability is not to be ignored, and I doubt whether countries like Iran, Syria, and North Korea will ignore it. They may well reason as Bush expects them to and limit their WMD programs and support for terrorism, if not reform domestically. But the prospects for long-run compliance are less bright. Although a frontal assault on American interests is perhaps unlikely, highly motivated adversaries will not give up the quest to advance their interests as they see them. The war in Iraq has increased the risks of their pursuing nuclear weapons, but it has also increased their incentives to do so. Amid the debate about what these weapons can accomplish, everyone agrees that they can deter invasion, which makes them very attractive to states who fear they might be in the American gun sights. Both Waltz's argument that proliferation will produce stability and the contrary and more common claim that it would make the world more dangerous imply that the spread of nuclear weapons will reduce American influence because others will have less need of its security guarantees and will be able to fend off its threats to their vital interests.[71] The American attempt to minimize the ability of others to resist U.S. pressures is the mark of a country bent, not on maintaining the status quo, but on fashioning a new and better order.

Obviously, U.S. military capabilities matter less in relations with allies and probably with Russia. From them the United States wants wholehearted cooperation on issues such as sharing highly sensitive information on terrorism, rebuilding failed states, preventing proliferation, and, perhaps most importantly, managing the international economy. There is little danger or hope that Europe will form a united counterweight to the United States and try to thwart it by

[71] Kenneth Waltz, *The Spread of Nuclear Weapons: More May Be Better* (London: IISS, Adelphi Paper No. 171, 1981); Scott Sagan and Kenneth Waltz, *The Spread of Nuclear Weapons: A Debate Renewed* (New York: Norton, 2003). For a range of views, see Marc Trachtenberg, "Waltzing to Armageddon?" *National Interest* 69 (Fall 2002): 144–155; Eric Herring, ed., *Preventing the Use of Weapons of Mass Destruction*, special issue of *Journal of Strategic Studies* 23 (March 2000); T. V. Paul, Richard Harknett, and James Wirtz, eds., *The Absolute Weapon Revisited: Nuclear Arms and the Emerging International Order* (Ann Arbor: University of Michigan Press, 1998).

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active opposition, let alone the use of force. But political resistance is quite possible and, even more than with adversaries, the fate of the American design for world order lies in the hands of its allies.[72] Although the United States governs many of the incentives that Europe and potential supporters face, what it needs from them cannot be coerced. It is possible that they will see themselves better off with the United States as an assertive hegemon, allowing them to gain the benefits of world order while being spared the costs, and they may conclude that any challenge would fail or bring with it dangerous rivalry. Without the war in Iraq, I doubt that the spring of 2003 would have seen the degree of cooperation that the United States obtained from Europe in combatting the Iranian nuclear program and from Japan and the PRC in containing North Korea.

But I suspect that much will depend on the allies' answers to several questions: Can the American domestic political system sustain the Bush doctrine over the long run? Will the United States be open to allied influence and values? Will it put pressure on Israel as well as on the Arabs to reach a settlement? More generally, will it seek to advance the broad interests of the diverse countries and people in the world, or will it exploit its power for its own narrower political, economic, and social interests? Bush's world gives little place for other states—even democracies—except as members of a supporting cast. Conflating broader with narrower interests and believing that one has a monopoly on wisdom are obvious ways that a hegemon can come to be seen as tyrannical.[73] Woodrow Wilson said that both nationalism and internationalism called for the United States to join the League of Nations: "The greatest nationalist is the man who wants his nation to be the greatest nation, and the greatest nation is the nation which penetrates to the heart of its duty and mission among the nations of the world. With every flash of insight into the great politics of mankind, the nation that has that vision is elevated to a place of influence and power which it cannot get by arms."[74] Wilson surely meant what he said, but his great certainty that he knew what was best for the world was troubling. In the presidential campaign, Bush said that the United States needed a "more humble foreign policy."[75] But its objectives and conceptions make the Bush doctrine quite the opposite. Avoiding this imperial temptation will be the greatest challenge that the United States faces.

[72] For a discussion of possible forms of nonviolent opposition, see Robert Pape, "Soft Balancing Against the United States" (unpublished paper, University of Chicago, 2003).

[73] See David Calleo, *The German Problem Reconsidered: Germany and the World Order, 1870 to the Present* (New York: Cambridge University Press, 1978) for a summary of relevant laboratory experiments; see Robert Goodin, "How Amoral *Is* Hegemon," *Perspectives on Politics* 1 (March 2003): 123–126.

[74] "A Luncheon Address to the St. Louis Chamber of Commerce," 5 September 1919 in Arthur Link et al., eds., *The Papers of Woodrow Wilson*, vol. 63, *September 4–November 5, 1919* (Princeton: Princeton University Press, 1990), 33.

[75] Quoted in David Sanger, "A New View of Where America Fits in the World," *New York Times*, 18 February 2001.

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Deciding on War Against Iraq: Institutional Failures

LOUIS FISHER

Following the swift U.S. military victory in Iraq, teams of experts conducted careful searches to discover the weapons of mass destruction that President George W. Bush offered as the principal justification for war. It was his claim that these weapons represented a direct and immediate threat. Months after the president announced victory, little evidence has been found nor is there much reason to expect anything significant to emerge. Stories began to circulate that perhaps the Bush administration had deceived allies, Congress, and the American public.

It is quite late to play the innocent, to express shock at troubling new disclosures. For over a year, the administration supplied a steady stream of unreliable statements. At no time did it make a persuasive, credible, or consistent case for war. Much of its rationale was exploded on a regular basis by the press. The campaign for war was dominated more by fear than facts, more by assertions of what might be, or could be, or used to be, than by what actually existed. Those who now felt duped had not been paying attention.

Month after month, the administration released claims that were unproven. In preparing for war in that manner, it should come as no surprise that plans for a stable, functioning Iraqi civil society seemed to be an afterthought. Having proved itself skilled in military combat, the Bush administration failed to address predictable looting and violence. After Afghanistan, it should have been obvious that a military victory must be followed quickly by a secure environment and visible reconstruction efforts. For its part, Congress seemed incapable of analyzing a presidential proposal and protecting its institutional powers. The decision to go to war cast a dark shadow over the health of U.S. political

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institutions and the celebrated system of democratic debate and checks and balances.

The dismal performances of the executive and legislative branches raise disturbing questions about the capacity and desire of the United States to function as a republican form of government. Americans are supposed to do more than salute the flag. The pledge of allegiance is to something much more fundamental. Consider the words: "I pledge allegiance to the flag of the United States of America, and to the republic for which it stands." A republic means giving power to the people through their elected representatives, trusting in informed, legislative deliberation rather than monarchical edicts, and keeping the war power in Congress instead of transferring it to the president. Fed unreliable information from the administration, democratic deliberation becomes shallow and vacuous. Lose what it means to be a republic, and the flag stands for nothing.

It is tempting for the Bush administration and its supporters to dismiss opposition to the war in Iraq as primarily leftist and antiwar, inspired by those who insist on international—not unilateral—solutions. That misses the point. After September 11, Americans were united in supporting military action against the terrorist structures in Afghanistan. If no other country had offered us support, Bush could have acted singlehandedly against al Qaeda and the Taliban with full public approval. He would have enjoyed the same public backing had he used military force against any other country or group responsible for September 11. Americans are willing to use force, and use it unilaterally, when necessary to defend the nation. Past and current opposition to the war in Iraq is of the administration's own making, nourished by statements that lacked credibility.

Patriotism is not indiscriminate flag-waving at each and every war. Citizens stand ready to sacrifice lives and fortunes for national security. At the same time, they oppose wars that cause needless deaths, including one's sons and daughters, and regard it a public duty to confront government officials who urge war without justifying it. Military force demands solid evidence that a threat is imminent and war is unavoidable. It is on that ground that the Bush administration and its allies—here and abroad—failed a fundamental democratic test.

A Muddled Explanation

David Frum, after a little more than a year as a speechwriter in the Bush White House, offered some insights into the process of policy making at the highest levels. Frum tells us that Bush "hated repetition and redundancy."[1] Frum is convinced that if Bush had read that sentence, he would have deleted the words "and redundancy." Still, Bush never tired of repeating that a link existed between Iraq and al Qaeda, even if the evidence remained tenuous and unpersua-

[1] David Frum, *The Right Man* (New York: Random House, 2003), 48.

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sive. Bush said it so often that most of the public came to believe it was true. In this area, he liked both repetition and redundancy.

One of Frum's draft speeches contained the phrase, "I've seen with my own eyes." Bush used his marking pen to add in the margin a sarcastic "DUH." Such experiences convinced Frum that Bush "insisted on strict linear logic."[2] There is much to be said for that. Bush's performance in the 2000 presidential campaign consisted of straight, simple talk, with an impressive ability to connect with an audience. Al Gore's delivery was much more convoluted, leaving listeners uncertain about the destination of his thoughts. Comparatively, Bush was a model of clarity.

Why did Bush, in advocating military action against Iraq, abandon "strict linear logic?" His speeches were filled with strained arguments and dramatic claims that could not be substantiated. Presentations were cloudy, repetitive, and lacking in credibility. It shouldn't have been difficult to make a plausible case for war and stick with it. Bush could have said: "Saddam Hussein has used chemical weapons against his own people. I don't want him in a position to use chemical agents again, possibly along with biological and nuclear weapons. Nor will I give him any potential for transferring such weapons to terrorists from other countries. I will do everything in my power to prevent another attack like September 11. To survive as a nation, we must be willing to act in advance."

Those themes appear in Bush's speeches and statements, but his rationale for war was confused by poorly reasoned statements and claims of Iraqi programs that rested on nonexistent facts. The administration seemed content to throw anything out to see if it would stick. That is the record from August 2002 to the present.

Looking at "All Options"

When the administration first began talking about war against Iraq, White House Spokesman Ari Fleischer cautioned on a number of occasions that President Bush was not rushing into war. Instead, he was described as a deliberate man who carefully studied all options. On 21 August 2002, President Bush called himself "a patient man. And when I say I'm a patient man, I mean I'm a patient man, and that we will look at all options, and we will consider all technologies available to us and diplomacy and intelligence."[3] With such statements Bush seemed to move with great care and circumspection.

A war plan, Americans were told, was not "on the President's desk."[4] At that same press conference on 21 August, Bush noted that "there is this kind of intense speculation that seems to be going on, a kind of a—I don't know how you would describe it. It's kind of a churning—." Secretary of Defense Donald

[2] Ibid.

[3] *Weekly Compilation of Presidential Documents*, 38: 1393–1394 (21 August 2002).

[4] Elizabeth Bumiller, "U.S. Must Act First to Battle Terror, Bush Tells Cadets," *New York Times*, 2 June 2002.

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Rumsfeld, standing next to him, supplied the missing word: "frenzy." Bush agreed. The country was too preoccupied, he said, with military action against Iraq.

Yet, within five days, the administration switched to a frenzied mode. Vice President Dick Cheney delivered a forceful speech that offered a single option: going to war. He warned that Saddam Hussein would "fairly soon" have nuclear weapons, and that it would be useless to seek a Security Council resolution requiring Iraq to submit to weapons inspectors. Hussein's threat, Cheney said, made preemptive attack against Iraq imperative.[5] The press interpreted his speech as "ruling out anything short of an attack."[6] Newspaper editorials concluded that Cheney's speech "left little room for measures short of the destruction of Saddam Hussein's regime through preemptive military action."[7] On 6 September, two reporters for the *Washington Post* noted the abrupt transition: "this week's frenzy of attention to Iraq was entirely generated by a White House whose occupants returned from the August recess anxious and ready to push the debate to a new level."[8] What happened to the options carefully being weighed by Bush?

In that first month, the administration was not yet walking lock-step. Secretary of State Colin Powell, in a 1 September interview with the BBC, recommended that weapons inspectors should return to Iraq as a "first step" in resolving the dispute with Iraq. Ari Fleischer, asked whether Powell's statement revealed a conflict within the administration, labored to convince reporters that Cheney and Powell agreed on fundamentals: "that arms inspectors in Iraq are a means to an end, and the end is knowledge that Iraq has lived up to its promises that it made to end the Gulf War, that it has in fact disarmed, that it does not possess weapons of mass destruction."[9] However, Cheney had already announced that Iraq *did* possess weapons of mass destruction.

On 3 September, Senate Minority Leader Trent Lott (R-MS) acknowledged the disarray within the administration: "I do think that we're going to have to get a more coherent message together."[10] Asked whether he was comfortable with the White House's presentation of the case for war against Iraq, he responded gamely: "I'd like to have a couple more days before I respond to that."[11] Such frankness must have made it easier for the administration to support Lott's replacement for majority leader, Bill Frist.

[5] Elizabeth Bumiller and James Dao, "Cheney Says Peril of a Nuclear Iraq Justifies Attack," *New York Times*, 27 August 2002.

[6] Dana Milbank, "Cheney Says Iraqi Strike Is Justified," *Washington Post*, 27 August 2002.

[7] "Mr. Cheney on Iraq" (Editorial), *Washington Post*, 27 August 2002.

[8] Dan Balz and Dana Milbank, "Iraq Policy Shift Follows Pattern," *Washington Post*, 6 September 2002.

[9] Dana Milbank, "No Conflict on Iraq Policy, Fleischer Says," *Washington Post*, 3 September 2002.

[10] Alison Mitchell and David E. Sanger, "Bush to Put Case for Action in Iraq to Key Lawmakers," *New York Times*, 4 September 2002.

[11] Helen Dewar and Mike Allen, "Senators Wary About Action Against Iraq," *Washington Post*, 4 September 2002.

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"Regime Change"

The meaning of "regime change" changed from week to week. On 4 April 2002, in an interview with a British television network, Bush said: "I made up my mind that Saddam needs to go. . . . The policy of my Government is that he goes. . . . [T]he policy of my Government is that Saddam Hussein not be in power."[12] That was vintage Bush: clear, straight talk. On 1 August, he stated that the "policy of my Government . . . is regime change—for a reason. Saddam Hussein is a man who poisons his own people, who threatens his neighbors, who develops weapons of mass destruction."[13] Without equivocation, Hussein had to go.

The commitment to regime change and offensive war changed abruptly when President Bush addressed the United Nations on 12 September. After cataloguing Saddam Hussein's noncompliance with Security Council resolutions, apparently building a case for regime change and military operations, Bush then laid down five conditions for a peaceful resolution. If Iraq wanted to avoid war, it would have to immediately and unconditionally pledge to remove or destroy all weapons of mass destruction, end all support for terrorism, cease persecution of its civilian population, release or account for all Gulf War personnel, and immediately end all illicit trade outside the oil-for-food program.[14] The underlying message: If Iraq complied with those demands, Saddam Hussein could stay in power.

On 21 October, after Congress had passed the Iraq resolution, Bush again said that Hussein could stay. He announced that if Hussein complied with every UN mandate, "that in itself will signal the regime has changed."[15] An exquisite sentence, with overtones of Bill Clinton, much like a magic trick where you ask: "Could you do that again, only this time more slowly?" Saddam Hussein could now stay in office if he changed.

Belittling Inspections

After the 12 September UN speech, offering peace to Iraq if it complied with the five demands, Iraq agreed four days later to unconditional inspections. Given Iraq's record since 1991, there was good cause to be skeptical of its promises. But the response should have been to test Iraq's sincerity by sending inspection teams there to learn on the ground whether it would give full access to buildings and presidential palaces. Instead, the administration began to make light of inspections. Pentagon spokeswoman Victoria Clarke warned that

[12] *Weekly Compilation of Presidential Documents*, 38: 573 (4 April 2002).

[13] Ibid., 1295.

[14] Ibid., 1532.

[15] David E. Sanger, "Bush Declares U.S. Is Using Diplomacy to Disarm Hussein," *New York Times*, 22 October 2002.

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inspections would be difficult if not impossible to carry out.[16] If so, why have Bush go to the UN and place that demand on Iraq and the Security Council?

On 26 September, during a campaign speech in Houston, Texas, Bush delivered the standard litany of offenses committed by Saddam Hussein, but added, perhaps carelessly: "this is a guy that tried to kill my dad at one time."[17] The comment made some wonder whether the impulse for war reflected careful considerations of national security or was instead a "family grudge match."[18] The administration offered many reasons for war, often going beyond concerns about weapons of mass destruction. Senator Paul Sarbanes (D-MD) questioned the claims by Secretary Colin Powell that Iraq, to avoid military action, would have to comply with a number of UN resolutions, including one directed against prohibited trade. Sarbanes asked: "Are we prepared to go to war to make sure they comply with U.N. resolutions on illicit trade outside the oil for food program? Will we take military action or go to war in order to make them release or account for all Gulf War personnel whose fate is still unknown? Would we do that?"[19] No answer was forthcoming.

The administration seemed unprepared or unwilling to distinguish between fundamental reasons and less consequential considerations. All became interchangeable, forming a mass here, separating into parts there. Missing throughout this process was integrity. Senator Richard Lugar (R-IN) criticized the undifferentiated laundry list of charges against Saddam Hussein, such as brutality toward his own people. In conversations with top officials of the administration, Lugar was satisfied that they recognized that such conduct could not justify a U.S. war.[20] In public statements, however, the administration—including President Bush—treated all these charges with the same seriousness. Whatever seemed to work was tried.

Why the zigs and zags? Going to war is a serious enterprise and calls for consistency, clarity, and coherence. It is supposed to be reasoned deliberation. In an op-ed piece in the *Washington Post* on 11 October 2002, Michael Kinsley acknowledged that ambiguity can be useful in dealing with other nations. Sending mixed signals can keep an enemy off balance. Yet, Kinsley concluded: "the cloud of confusion that surrounds Bush's Iraq policy is not tactical. It's the real thing. And the dissembling is aimed at the American citizenry, not at Saddam Hussein." Kinsley said that arguments that "stumble into each other like drunks are not serious. Washington is abuzz with the 'real reason' this or that subgroup of the administration wants this war."[21] Even after the military victory in April 2003, people are still asking the same question: "Why did we go to war?"

[16] Todd A. Purdum and David Firestone, "Chief U.N. Inspector Backs U.S., Demanding Full Iraq Disclosure," *New York Times*, 5 October 2002.

[17] *Weekly Compilation of Presidential Documents*, 38: 1633 (26 September 2002).

[18] Mike Allen, "Bush's Words Can Go to the Blunt Edge of Trouble," *Washington Post*, 29 September 2002.

[19] Todd S. Purdum, "The U.S. Case Against Iraq; Counting Up the Reasons," *New York Times*, 1 October 2002.

[20] David E. Sanger and Carl Hulse, "Bush Appears to Soften Tone on Iraq Action," *New York Times*, 2 October 2002.

[21] Michael Kinsley, "War for Dummies," *Washington Post*, 11 October 2002.

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Legal Authority

Initially the administration concluded that President Bush did not need authority from Congress to mount an offensive war against Iraq. The White House Counsel's office gave a broad reading to the President's power as Commander in Chief and argued that the 1991 Iraq resolution provided continuing military authority to the President, transferring the authority neatly from father to son.[22] In an article for *Legal Times*, I detailed why those arguments were forced and unconvincing.[23] The Framers made the president Commander in Chief, not a monarch.

The White House claimed that Congress, by passing the Iraq Liberation Act of 1998, had already approved U.S. military action against Iraq for violations of Security Council resolutions.[24] That argument was empty. The statute begins by itemizing a number of congressional findings about Iraq: invasion of Iraq and Kuwait, the killing of Kurds, using chemical weapons against civilians, and other offenses. It supported, as a legally nonbinding "sense of Congress," efforts to remove Saddam Hussein from power and replace him with a democratic government. The law states that none of its provisions "shall be construed to authorize or otherwise speak to the use of United States Armed Forces (except as provided in section 4(a)(2)) in carrying out this Act."[25] That section authorized up to $97 million in military supplies to Iraqi opposition groups as part of the transition to democracy in Iraq. By its explicit terms, the statute did not authorize war.

Ari Fleischer announced that Bush "intends to consult with Congress because Congress has an important role to play."[26] Yet, for Bush and his aides to merely "consult" with Congress would not meet the needs of the Constitution. No doubt policy making works better when the president consults with lawmakers, but consultation is not a substitute for receiving statutory authority to go to war. Congress is a legislative body that discharges its constitutional duties by passing statutes to authorize and define national policy. It exists to legislate and legitimate, particularly for military and financial commitments. Only congressional authorization of a war against Iraq would satisfy the Constitution.

Bringing Congress on Board

For one reason or another, Bush decided in early September 2002 to seek authorization from Congress. On several Sunday talk shows broadcast on 8 September, administration officials abandoned the unilateralist rhetoric and began

[22] Mike Allen and Juliet Eilperin, "Bush Aides Say Iraq War Needs No Hill Vote," *Washington Post*, 26 August 2002.

[23] Louis Fisher, "The Road to Iraq," *Legal Times*, 2 September 2002, 34.

[24] "Bush Rejects Hill Limits on Resolution Allowing War," *Washington Post*, 2 October 2002.

[25] 112 Stat. 3181, §8 (1998).

[26] Ron Fournier, "White House Lawyers Give Bush OK on Iraq," *Washington Times*, 26 August 2002.

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building a case for a broad coalition. Cheney, having advocated preemptive strikes against Iraq a few weeks earlier, now embraced an entirely different strategy: "We're working together to build support with the American people, with the Congress, as many have suggested we should. And we're also, as many have suggested we should, going to the United Nations."[27]

The Rush to War

Although the administration had debated going to war against Iraq ever since September 11, Congress was expected to act quickly. According to one newspaper story, White House officials "have said that their patience with Congress would not extend much past the current session."[28] The message to Congress was now: Get on board or we'll leave without you. The administration wanted Congress to pass an authorizing resolution before it adjourned for the November elections. National Security Adviser Condoleeza Rice said that President Bush wanted lawmakers to approve the resolution before leaving town, adding that Bush "thinks it's better to do this sooner rather than later."[29]

What was so urgent? Senator Robert C. Byrd (D-WV) deplored "the war fervor, the drums of war, the bugles of war, the clouds of war—this war hysteria has blown in like a hurricane."[30] What could explain the shift from a relaxed policy in August to a "frenzied" demand a month later? White House Chief of Staff Andrew Card gave an interesting reason for waiting until September to advocate military action against Iraq: "from a marketing point of view, you don't introduce new products in August."[31] Was this another careless, flippant remark, or an inadvertent disclosure of the truth?

Bush could not rely on the precedents established by his father. In 1990, after Iraq had invaded Kuwait, the administration did not ask Congress for authority before the November elections. Instead, it first went to the Security Council and requested a resolution to authorize military operations, which passed on 29 November. Only in January 1991, after lawmakers returned, did they debate and pass legislation to authorize war against Iraq.

For reasons that were never explained, Congress in 2002 had to act pell-mell. In an op-ed piece that supported the administration's strategy, former Secretary of State George Shultz argued that the "danger is immediate." Iraq's making of weapons of mass destruction "grows increasingly difficult to counter with each passing day."[32] Thoughtful deliberation was pushed to the side in fa-

[27] Mike Allen, "War Cabinet Argues for Iraq Attack," *Washington Post*, 9 September 2002.

[28] David Firestone and David E. Sanger, "Congress Now Promises to Hold Weeks of Hearings About Iraq," *New York Times*, 6 September 2002.

[29] Mike Allen, "War Cabinet Argues for Iraq Attack," *Washington Post*, 9 September 2002.

[30] *Congressional Record*, 148: S8966 (daily edition, 20 September 2002).

[31] Dana Milbank, "Democrats Question Iraq Timing," *Washington Post*, 16 September 2002.

[32] George P. Shultz, "Act Now: The Danger Is Immediate: Saddam Hussein Must Be Removed," *Washington Post*, 6 September 2002.

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vor of hyperventilation. Senate Majority Leader Tom Daschle (D-SD) suggested that Bush would have an easier time getting congressional support if he first gained Security Council approval, but the administration would brook no delays.[33] Congress had to act first. There was no constitutional requirement for Congress to wait until the Security Council met and voted, but acting in the months before the November elections placed lawmakers in a subordinate position.

Disarray by Democrats

Democrats, unable to develop a counterstrategy, appeared to favor a prompt vote on the Iraq resolution to get that issue off the table. It was reported that Senator Daschle hoped to expedite action on the Iraq resolution "to focus on his party's core message highlighting economic distress before the November midterm elections."[34] Senator John Edwards (D-NC) counseled quick action: "In a short period of time, Congress will have dealt with Iraq and we'll be on to other issues."[35]

This approach had multiple drawbacks, both moral and practical. Could Democrats credibly authorize a war merely to draw attention to their domestic agenda? That seems unconscionable. As noted by Senator Mark Dayton (D-MN), trying to gain "political advantage in a midterm election is a shameful reason to hurry decisions of this magnitude."[36] Second, voting on the Iraq resolution could never erase the White House's advantage in controlling the headlines, if not through the Iraq resolution then through ongoing, cliffhanging negotiations with the UN Security Council. Third, although these Democrats said they wanted to put the issue of war against Iraq behind them, it would always be in front.

Legislative action before the November elections invited partisan exploitation of the war issue. Several Republican nominees in congressional contests made a political weapon out of Iraq, comparing their "strong stand" on Iraq to "weak" positions by Democratic campaigners. Some of the key races in the nation appeared to turn on what candidates were saying about Iraq.[37] Because of the steady focus on the war, Democrats were unable to redirect the political agenda to corporate crime, the state of the stock market, and the struggling economy.[38]

[33] Bradley Graham, "Cheney, Tenet Brief Leaders of Hill on Iraq," *Washington Post*, 6 September 2002.

[34] David Firestone, "Liberals Object to Bush Policy on Iraq Attack," *New York Times*, 28 September 2002.

[35] Dana Milbank, "In President's Speeches, Iraq Dominates, Economy Fades," *Washington Post*, 25 September 2002.

[36] Mark Drayton, "Go Slow on Iraq," *Washington Post*, 28 September 2002.

[37] Jim VandeHei, "GOP Nominees Make Iraq a Political Weapon," *Washington Post*, 18 September 2002.

[38] Dana Milbank, "Democrats Question Iraq Timing," *Washington Post*, 16 September 2002.

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The partisan flavor intensified when President Bush, in a speech in Trenton, New Jersey on 23 September, said that the Democratic Senate "is more interested in special interests in Washington and not interested in the security of the American people."[39] That was a stunning charge, invoking national security to brand Democrats as corrupt, if not traitorous. Recognizing that it might have stepped over the line, the administration quickly explained that Bush's remark was delivered in the context of the legislative delay on the Department of Homeland Security, but Democrats faulted Bush for using the war as leverage in the House and Senate races.[40]

After the Trenton speech, Democrats could have announced that Bush had so politicized and poisoned the debate on the Iraq resolution that it could not be considered with the care and seriousness it deserved. Daschle, in particular, could have used his position as Senate Majority Leader to delay a vote until after the elections. Perhaps he lacked the votes in the Senate Democratic Caucus to prevail. If he failed to rally his troops, he would have highlighted his weakness as a leader and advertised the divisions within his own ranks. In the end, however, as evidenced by the vote on the Iraq resolution, Senate Democrats were divided anyway. Several Senate Democrats criticized Daschle for working too closely with Bush on the Iraq resolution and getting nothing in return. Bush's comments on 23 September, they said, made it look like Daschle was being "played for a fool."[41]

Unsubstantiated Executive Claims

Bush and other top officials invited members of Congress to sessions where they would receive confidential information about the threat from Iraq, but the lawmakers said they heard little that was new. After one of the briefings, Senator Bob Graham (D-FL) remarked: "I did not receive any new information."[42] House Minority Whip Nancy Pelosi (D-CA), who also served as ranking Democrat on the House Intelligence Committee, announced that she knew of "no information that the threat is so imminent from Iraq" that Congress could not wait until January to vote on an authorizing resolution.[43] None of the charges against Iraq in Bush's address to the UN was new. After a "top secret" briefing by Defense Secretary Rumsfeld in a secure room in the Capitol, Senator John McCain (R-AZ) soon rose and walked out, saying, "It was a joke."[44]

[39] *Weekly Compilation of Presidential Documents*, 38: 1598 (23 September 2002).

[40] Carl Hulse and Todd S. Purdum, "Daschle Defends Democrats' Stand on Security of U.S.," *New York Times*, 26 September 2002.

[41] Jim VandeHei, "Daschle Angered by Bush Statement," *Washington Post*, 26 September 2002.

[42] Mike Allen and Karen DeYoung, "Bush to Seek Hill Approval on Iraq War," *Washington Post*, 5 September 2002.

[43] Jim VandeHei and Juliet Eilperin, "Democrats Unconvinced on Iraq War," *Washington Post*, 11 September 2002.

[44] Jim VandeHei, "Iraq Briefings: Don't Ask, Don't Tell," *Washington Post*, 15 September 2002.

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A Link Between Iraq and al Qaeda?

The administration tried repeatedly to establish a connection between Iraq and al Qaeda, but the reports could never be substantiated. On 25 September, Bush claimed that Saddam Hussein and al Qaeda "work in concert."[45] On the following day, he claimed that the Iraqi regime "has longstanding and continuing ties to terrorist organizations, and there are [al Qaeda] terrorists inside Iraq."[46] Ari Fleischer tried to play down Bush's remark, saying he was talking about what he feared *could* occur.[47] Why weren't Bush and his press secretary able to speak from the same page? Did the ties and links exist, as Bush claimed, or were they merely future possibilities?

Senator Joseph Biden (D-DE), who attended a classified briefing that talked about the relationship between Iraq and al Qaeda, said that credible evidence had not been presented.[48] There was some evidence of possible al Qaeda activity in the northeastern part of Iraq—the community of Ansar al-Islam—but that was Kurdish territory made semiautonomous because of American and British flights over the no-fly zones. Saddam Hussein wasn't in a position to do anything about Ansar. Besides, members of al Qaeda are present in some sixty countries. Presence alone does not justify military force.

Allies in Europe, active in investigating al Qaeda and radical Islamic cells, could find no evidence of links between Iraq and al Qaeda. Interviews with top investigative magistrates, prosecutors, police, and intelligence officials could uncover no information to support the claims by the Bush administration. Investigative officials in Spain, France, and Germany, after dismissing a connection between Iraq and al Qaeda, worried that a war against Iraq would increase the terrorist threat rather than diminish it.[49]

On 27 September, Secretary Rumsfeld announced that the administration had "bulletproof" evidence of Iraq's links to al Qaeda. He said that declassified intelligence reports, showing the presence of senior members of al Qaeda in Baghdad in "recent periods," were "factual" and "exactly accurate." However, when reporters sought to substantiate his claim, officials offered no details to back up the assertions. Having claimed bulletproof support, Rumsfeld admitted that the information was "not beyond a reasonable doubt." That's quite a definition of bulletproof. Senator Chuck Hagel (R-NE) told Secretary of State Powell: "To say, 'Yes, I know there is evidence there, but I don't want to tell you any more about it,' that does not encourage any of us. Nor does it give the American public a heck of a lot of faith that, in fact, what anyone is saying is true."[50]

[45] *Weekly Compilation of Presidential Documents*, 38: 1619 (25 September 2002).

[46] Ibid., 1625.

[47] Mike Allen, "Bush Asserts That Al Qaeda Has Links to Iraq's Hussein," *Washington Post*, 26 September 2002.

[48] Karen De Young, "Unwanted Debate on Iraq-Al Qaeda Links Revived," *Washington Post*, 27 September 2002.

[49] Sebastian Rotella, "Allies Find No Links Between Iraq, Al Qaeda," *Los Angeles Times*, 4 November 2002.

[50] Eric Schmitt, "Rumsfeld Says U.S. Has 'Bulletproof' Evidence of Iraq's Links to Al Qaeda," *New York Times*, 28 September 2002.

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In his speech to the nation on 7 October, on the eve of the congressional vote, President Bush said that Iraq "has trained Al Qaida members in bomb-making and poisons and deadly gases."[51] Intelligence officials, however, played down the reliability of those reports.[52] After the vote, the administration promoted a story about Mohamed Atta, the leader of the September 11 attacks, meeting with an Iraqi intelligence officer in Prague in April 2001. Yet, this assertion was also without foundation: Czech President Vaclav Havel and the Czech intelligence service said that there was no evidence that the meeting ever took place. Central Intelligence Agency (CIA) Director George Tenet told Congress that his agency had no information that could confirm the meeting.[53]

On 11 February 2003, Secretary Powell cited an audiotape believed to be of Osama bin Laden as evidence that he was "in partnership with Iraq."[54] The tape contained no such evidence. It specifically criticized "pagan regimes" and the "apostasy" practiced by socialist governments like Iraq. In a military contest between the United States and Iraq, the tape certainly supported Iraq, but that is hardly evidence of partnership. As much as al Qaeda detests Iraq, it detests the United States more. In an op-ed for the *Washington Post* on 13 February, Richard Cohen wondered why Powell had to "gild the lily. The case for war is a good one." He reminded Powell that in the war against Vietnam, the U.S. government's exaggerations and decisions eventually "lost the confidence of the people." The Bush administration, Cohen said, had a habit of tickling the facts and expunging caveats, doubts, and conditional clauses from the record.[55] An editorial in the *New York Times* warned that there was "no need for the administration to jeopardize its own credibility with unproved claims about an alliance between Iraq and Al Qaeda."[56]

Nevertheless, on 1 May 2003, while standing on the deck of the *Abraham Lincoln* carrier to announce military victory over Iraq, Bush announced: "We've removed an ally of Al Qaida."[57] With repetition and redundancy, an unsubstantiated claim has an excellent chance of sticking.

Weapons of Mass Destruction

The administration kept a steady drumbeat for war, releasing various accounts to demonstrate why Iraq was an imminent threat. On 7 September, President

[51] *Weekly Compilation of Presidential Documents*, 38: 1717 (7 October 2002).

[52] Karen De Young, "Bush Cites Urgent Iraqi Threat," *Washington Post*, 8 October 2002.

[53] James Risen, "Prague Discounts An Iraqi Meeting," *New York Times*, 21 October 2002; James Risen, "How Politics and Rivalries Fed Suspicions of a Meeting," *New York Times*, 21 October 2002; Peter S. Green, "Havel Denies Telephoning U.S. on Iraq Meeting," *New York Times*, 23 October 2002.

[54] Dan Eggen and Susan Schmidt, "Bin Laden Calls Iraqis to Arms," *Washington Post*, 12 February 2003.

[55] Richard Cohen, "Powellian Propaganda?" *Washington Post*, 13 February 2003.

[56] "Elusive Qaeda Connections" (Editorial), *New York Times*, 14 February 2003.

[57] *Weekly Compilation of Presidential Documents*, 39: 517 (1 May 2003).

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Bush cited a report by the International Atomic Energy Agency (IAEA) that the Iraqis were "6 months away from developing a weapon. I don't know what more evidence we need."[58] More evidence was indeed needed because the report Bush referred to didn't exist.[59] It would seem embarrassing for a president to be that far from the truth. Shouldn't some White House aide get kicked out the door for making Bush look ill-informed? There were no such embarrassments and no such casualties.

In his 7 October speech, President Bush claimed that satellite photographs "reveal that Iraq is rebuilding facilities at sites that have been part of his nuclear program in the past."[60] The administration decided to declassify two before-and-after photos of the Al Furat manufacturing facility.[61] This "declassification" was interesting: the administration regularly complained about leaks of sensitive documents to the media, but if classified information seemed to bolster the administration's case, it quickly became public. Five busloads of 200 reporters descended on the site and received a ninety-minute tour by Iraqi generals. The reporters found few clues to indicate a weapons program.[62]

True, a quick visit by reporters meant little. They had neither time nor expertise to explore all the buildings and examine them carefully. But it is equally true that satellite photos are unable to penetrate buildings and analyze their interiors. Only a ground search by experienced inspectors could do that. When the UN inspection teams reached Iraq in November, they could find no evidence of a nuclear weapons program at Al Furat or anywhere else in Iraq.[63]

The Bush administration claimed that Iraq had bought aluminum tubes and planned to use them to enrich uranium to produce nuclear weapons. Specialists from UN inspection teams concluded that the specifications of the tubes were consistent with tubes used for rockets. The tubes could have been modified to serve as centrifuges for enriching uranium, but the modifications would have had to be substantial. Moreover, there was no evidence that Iraq had purchased materials needed for centrifuges, such as motors, metal caps, and special magnets.[64]

On 5 February 2003, in his statement to the UN Security Council, Secretary Powell laid out his case for going to war against Iraq, citing what he considered to be evidence of weapons of mass destruction. With little evidence of a nuclear weapons program, he emphasized that Iraq had mobile production facilities

[58] Ibid., 38: 1518.

[59] Dana Milbank, "For Bush, Facts Are Malleable," *Washington Post*, 22 October 2002.

[60] *Weekly Compilation of Presidential Documents*, 38: 1718 (7 October 2002).

[61] "Al Furat Manufacturing Facility, Iraq," *Washington Post*, 8 October 2002.

[62] John Burns, "Iraq Tour of Suspected Sites Gives Few Clues on Weapons," *New York Times*, 13 October 2002.

[63] "Nuclear Inspection Chief Reports Finding No New Weapons," *New York Times*, 28 January 2003.

[64] Michael R. Gordon, "Agency Challenges Evidence Against Iraq Cited by Bush," *New York Times*, 10 January 2003; Joby Warrick, "U.S. Claim on Iraqi Nuclear Program Is Called Into Question," *Washington Post*, 24 January 2003.

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"used to make biological agents."[65] In a matter of months, he said, these mobile facilities "can produce a quantity of biological poison equal to the entire amount that Iraq claimed to have produced in the years prior to the Gulf War."[66] After hostilities were over, U.S. forces discovered two mobile labs in Iraq, but it is uncertain what they had been used for.[67] A 28 May 2003 report by the intelligence community found nothing definitive.

Plagiarism and Fabrication

The British government released a nineteen-page report entitled "Iraq: Its Infrastructure of Concealment, Deception and Intimidation," posting it on No. 10 Downing Street's web site. It appeared to be a thorough analysis prepared by the British intelligence agencies. In fact, the report had its own problems with concealment and deception. In February 2003, the British government admitted that much of the report had been lifted from magazines and academic journals, some of it verbatim. Spelling and punctuation errors in the originals were faithfully reproduced in the government's report. Although the government claimed that the report contained "up-to-date details of Iraq's network of intelligence and security," much of it was based on an article by a postgraduate student who focused on events a dozen years old, in the 1990–1991 period.[68] After defending the report, the British government in June 2003 conceded that including the student's article was "regrettable."[69]

In his State of the Union message on 28 January 2003, President Bush said that the British government "has learned that Saddam Hussein recently sought significant quantities of uranium from Africa."[70] Two points deserve mention. First, "sought" is not the same as "bought." More seriously, the British government relied on evidence that its intelligence agencies thought unreliable. The documents turned out to be not only unreliable but actually a fabrication. The forged documents contained crude errors that undermined their credibility.[71] As one U.S. official admitted: "We fell for it."[72] The significant point is not an

[65] Michael Dobbs, "Powell Lays Out Case Against Iraq," *Washington Post*, 6 February 2003.

[66] Ibid.

[67] Walter Pincus and Michael Dobbs, "Suspected Bioweapon Mobile Lab Recovered," *Washington Post*, 7 May 2003; "A Suspected Weapons Lab Is Found in Northern Iraq," *New York Times*, 10 May 2003; Judith Miller, "Trailer is a Mobile Lab Capable of Turning Out Bioweapons, a Team Says," *New York Times*, 11 May 2003; Judith Miller and William J. Broad, "U.S. Analysts Link Iraq Labs to Germ Arms," *New York Times*, 21 May 2003.

[68] Sarah Lyall, "Britain Admits That Much of Its Report on Iraq Came From Magazines," *New York Times*, 8 February 2003; Glenn Frankel, "Blair Acknowledges Flaws in Iraq Dossier," *Washington Post*, 8 February 2003.

[69] Jane Wardell, "Blair Aide Concedes Error on Iraq Dossier," *Washington Post*, 26 June 2003.

[70] *Weekly Compilation of Presidential Documents*, 39: 115 (28 January 2003).

[71] Joby Warrick, "Some Evidence on Iraq Called Fake," *Washington Post*, 8 March 2003.

[72] Ibid.

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unfortunate mistake but rather the willingness of the administration to exploit and go public with any information no matter how tenuous and suspect.

Congress Folds

There was little doubt that President Bush would gain approval for military action in the Republican House. The question was whether the vote would divide along party lines. Some of the partisan issue blurred when House Minority Leader Dick Gephardt (D-MO) broke ranks with many in his party and announced support for a slightly redrafted resolution. He said, "We had to go through this, putting politics aside, so we have a chance to get a consensus that will lead the country in the right direction."[73] Of course, politics could not be put aside. Even when leaders of the two parties and the two branches appealed for nonpartisan or bipartisan conduct, their comments were generally viewed as calculated to have some partisan benefit. Gephardt's interest in running for the presidency was well known, as was Daschle's and several other members of Congress. Democratic Senators John Edwards and Joseph Lieberman, both interested in a 2004 bid for the presidency, endorsed the Iraq resolution. Senator John Kerry, about to announce his bid for the presidency, initially expressed doubts about the resolution but later voted for it.[74] One Democratic lawmaker concluded that Gephardt, by supporting Bush, had "inoculated Democrats against the charge that they are antiwar and obstructionist."[75]

Why were Democrats so anxious about being seen as antiwar? There was no evidence that the public in any broad sense supported immediate war against Iraq. A *New York Times* poll published on 7 October 2002 indicated that 69 percent of Americans believed that Bush should be paying more attention to the economy. Although support was high for military action (with 67 percent approving U.S. military action against Iraq with the goal of removing Hussein from power), when it was asked, "Should the U.S. take military action against Iraq fairly soon or wait and give the U.N. more time to get weapons inspectors into Iraq?" 63 percent preferred to wait. To the question "Is Congress asking enough questions about President Bush's policy toward Iraq?" only 20 percent said too many, while 51 percent said not enough. Asked whether Bush was more interested in removing Hussein than weapons of mass destruction, 53 percent said Hussein and only 29 percent said weapons.[76]

[73] "For Gephardt, Risks and a Crucial Role," *Washington Post*, 3 October 2002.

[74] Dan Balz and Jim VandeHei, "Democratic Hopefuls Back Bush on Iraq," *Washington Post*, 14 September 2002.

[75] David E. Rosenbaum, "United Voice on Iraq Eludes Majority Leader," *New York Times*, 4 October 2002.

[76] Adam Nagourney and Janet Elder, "Public Says Bush Needs to Pay Heed to Weak Economy," *New York Times*, 7 October 2002.

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A *Washington Post* story on 8 October described the public's enthusiasm for war against Iraq as "tepid and declining."[77] Americans gave Bush the benefit of the doubt but were not convinced by his arguments. Because of those doubts, "support could fade if the conflict in Iraq becomes bloody and extended."[78] These public attitudes led the *New York Times* to wonder: "Given the cautionary mood of the country, it is puzzling that most members of Congress seem fearful of challenging the hawkish approach to Iraq."[79]

The vote on the Iraq resolution could never be anything other than a political decision, probably the most important congressional vote of the year. Inescapably and legitimately it called for a political judgment. Lawmakers would be voting on whether to commit as much as $100 billion or $200 billion to a war stretching over a period of years. Their actions would stabilize or destabilize the Middle East, strengthen or weaken the war against terrorism, enhance or debase the nation's prestige. Politics would always be present, as would partisan calculations and strategy.

When the House International Relations Committee reported the resolution, it divided thirty-one to eleven. Democrats on the committee split ten to nine in favoring it. Two Republicans, Jim Leach of Iowa and Ron Paul of Texas, opposed it. The forty-seven-page committee report consists of only five pages of text analyzing the resolution.[80] President Bush's speech to the UN occupies another five pages. Twenty-one pages are devoted to an administration document called "A Decade of Deception and Defiance: Saddam Hussein's Defiance of the United Nations" (12 September 2002). It was prepared as a background paper for Bush's speech to the UN. Some of it describes what was supposedly the administration's main concern: the development of weapons of mass destruction. Other sections focused on conditions in Iraq that, while deplorable, could hardly justify war: Iraq's refusal to allow visits by human rights monitors; the expulsion of UN humanitarian relief workers; violence against women; child labor and forced labor; the lack of freedom of speech and press; and refusal to return to Kuwait state archives and museum pieces.

A key section of the report reads: "The Committee hopes that the use of military force can be avoided. It believes, however, that providing the President with the authority he needs to use force is the best way to avoid its use. A signal of our Nation's seriousness of purpose and its willingness to use force may yet persuade Iraq to meet its international obligations, and is the best way to persuade members of the Security Council and others in the international community to join us in bringing pressure on Iraq or, if required, in using armed force against it."[81] Thus, the legislation would decide neither for nor against war. That judgment, which the Constitution places in Congress, would now be left in the hands of the President.

[77] Dana Milbank, "With Congress Aboard, Bush Targets a Doubtful Public," *Washington Post*, 8 October 2002.

[78] Ibid.

[79] "A Nation Wary of War" (Editorial), *New York Times*, 8 October 2002.

[80] H. Rept. No. 107–721, 107th Cong., 2d Sess. (2002).

[81] Ibid., 4–5.

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The Tonkin Gulf Precedent

Acting as it did, the House International Relations Committee both authorized military force and hoped it would not be necessary. That kind of straddling reminds one of the Tonkin Gulf resolution of 1964, which Congress passed almost unanimously, with only two dissenting votes in the Senate. Passage of this resolution was not an endorsement of war either. Instead, members of Congress thought that by offering broad, bipartisan support to President Lyndon B. Johnson, war with North Vietnam could be avoided. Like the Iraq resolution, the legislative vote in 1964 was neither for war nor against it.

During Senate debate on the Tonkin Gulf resolution, Gaylord Nelson reviewed the statements by his colleagues and noticed that "every Senator who spoke had his own personal interpretation of what the joint resolution means." He found that "there is no agreement in the Senate on what the joint resolution means."[82] To clarify the intent of the resolution, he offered an amendment to state that President Johnson would seek "no extension of the present military conflict" and that "we should continue to attempt to avoid a direct military involvement in the southeast Asian conflict." Senator J. William Fulbright, floor manager of the resolution, refused to accept the amendment because it would force the two Houses to go to conference to resolve the differences between the versions passed by each chamber. Fulbright didn't want Congress taking another week or so to clarify the resolution. Nevertheless, he felt satisfied that Nelson's amendment expressed "fairly accurately what the President has said would be our policy, and what I stated my understanding was as to our policy." Fulbright believed that the resolution "is calculated to prevent the spread of the war, rather than to spread it."[83] What counts, however, is not what lawmakers say during debate but what the president does with broad statutory authority. The military expansion that began in February 1965 led to the deaths of 58,000 Americans and several million in Southeast Asia.

Congressional debate in 2002 contains some similarities and differences to the Tonkin Gulf resolution. The House passed the Iraq resolution, 296–133, compared to the unanimous House vote in 1964. Yet, the resolutions are virtually identical in transferring to the president the sole decision to go to war and determine its scope and duration. In each case, lawmakers chose to trust in the president, not in themselves. Instead of acting as the people's representatives and preserving the republican form of government, they gave the president unchecked power.

Senate Action

After the House vote in 2002, Senate Majority Leader Daschle announced his support for the resolution. Although he suggested that senators might "go back and tie down the language a little bit more if we can," he insisted that "we have

[82] *Congressional Record*, 110: 18458 (1964).
[83] Ibid., 18462.

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got to support this effort. We have got to do it in an enthusiastic and bipartisan way."[84] Why the need for enthusiasm and bipartisanship? Why wasn't the argument on the merits? Placing trust in the president or calling for bipartisanship are not proper substitutes for analyzing the need for military force against another country. Senator Kerry, who had earlier raised substantive arguments against going to war against Iraq, now accepted presidential superiority over Congress: "We are affirming a president's right and responsibility to keep the American people safe, and the president must take that grant of responsibility seriously."[85] With that kind of reading of constitutional authority, Congress had little role other than to offer words of encouragement and support to a president who already seemed to possess all the constitutional authority he needed to act singlehandedly. Far from being a coequal branch, Congress was distinctly junior varsity. It no longer functioned as an authorizing body. Its task was simply to endorse what the president had already decided.

A similar position appears in Daschle's statement that "it is important for America to speak with one voice at this critical moment."[86] Comparable statements were made by senators in 1964, when they endorsed the Tonkin Gulf resolution. Why should legislators consider agreement with the president more important than conscientious and individual allegiance to their constitutional duties? The Framers counted on collective judgment, the deliberative process, and checks and balances. All of that is lost when lawmakers decide to join with the president and subordinate their positions to his. A member of Congress takes an oath to support and defend the Constitution, not the president. The experience with the Tonkin Gulf resolution demonstrated that unity and lockstep decision making do not assure wise policy.

This issue played out in other contexts. During debate on the Department of Homeland Security, Senator Daschle said he intended "to give the President the benefit of the doubt." His Democratic colleague, Robert Byrd, took sharp exception: "I will not give the benefit of the doubt to the President. I will give the benefit of the doubt to the Constitution."[87] Byrd watched the congressional debate drift from an initial willingness of lawmakers to analyze issues and weigh the merits to wholesale legislative abdication to the President. To Byrd, the fundamental question of why the United States should go to war was replaced by "the mechanics of how best to wordsmith the President's use-of-force resolution in order to give him virtually unchecked authority to commit the nation's military to an unprovoked attack on a sovereign nation." Having followed the arguments presented by Bush and after questioning the top executive branch

[84] John H. Cushman, Jr., "Daschle Predicts Broad Support for Military Action Against Iraq," *New York Times*, 7 October 2002.

[85] Helen Dewar and Juliet Eilperin, "Iraq Resolution Passes Test, Gains Support," *Washington Post*, 10 October 2002.

[86] Jim VandeHei and Juliet Eilperin, "House Passes Iraq War Resolution," *Washington Post*, 11 October 2002.

[87] *Congressional Record*: 148; S9187, S9188 (daily edition, 25 September 2002).

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officials responsible for crafting the resolution, Byrd did not find the threat from Iraq "so great that we must be stampeded to provide such authority to this president just weeks before an election."[88]

Republican Senators Lugar, Hagel, and Arlen Specter (PA), after raising serious questions about the Iraq resolution, decided by 7 October to support it.[89] On 10 October, the Senate voted seventy-seven to twenty-three for the resolution. The only Republican voting against the resolution was Lincoln Chafee of Rhode Island. An Independent, James Jeffords of Vermont, also voted No.

A Military, Not a Political, Victory

The United States triumphed militarily over Iraq in less than a month, but with deep, long-term costs to constitutional government. The euphoria and celebrations at home were strange. No one doubted that U.S. forces would prevail over an Iraq that lacked an air force and had few ground troops willing to fight. It is understandable that great pride would be placed in the American men and women who put their lives at stake in Iraq and accomplished their military mission. But the issue was never whether the United States would win the war. It was whether war was necessary and what would happen in Iraq and the region after military operations had ceased.

Congress failed to discharge its constitutional duties when it passed the Iraq resolution. Instead of making a decision about whether to go to war and spend billions for a multiyear commitment, it transferred those legislative judgments to the President. Legislators washed their hands of the key decisions to go to war and for how long. Congress should not have voted on the resolution before the election, which colored the votes and the political calculations. Voting under that pressure benefited the President.

It would have been better for Congress as an institution and for the country as a whole to first wait for President Bush to request the Security Council to authorize inspections in Iraq. Depending on what the Security Council did or did not do, and on what Iraq agreed or did not agree to do, Congress could then have debated whether to authorize war. Having learned what the Security Council and Iraq actually did, rather than speculate on what they might do, Congress would have been in the position to make an informed choice. Instead, it voted under partisan pressures, with inadequate information, and thereby abdicated its constitutional duties to the President. Congress suffered a loss, as did popular control and the democratic process.

In the end, Congress had two models to choose from. It could have acted after the election, as it did in 1990–1991, or it could have acted in the middle of an election, as in 1964. The first would have maintained the integrity of the legislative institution by minimizing partisan tactics and scheduling legislative

[88] Robert C. Byrd, "Congress Must Resist the Rush to War," *New York Times*, 10 October 2002.
[89] Helen Dewar, "Armey, Lugar Reverse Stand on Resolution," *Washington Post*, 8 October 2002.

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debate after the Security Council voted. The second would have placed Congress in a position of voting hurriedly without the information it needed and with information it did receive (the two "attacks" in Tonkin Gulf) of dubious quality. In 2002, Congress picked the Tonkin Gulf model. There may be times when Congress might have to authorize war in the middle of an election. The year 2002 wasn't one.

Doctoring Intelligence Reports

The failure thus far to find weapons of mass destruction in Iraq has raised a serious question: Did the Bush administration deliberately misread or misrepresent intelligence reports to exaggerate the nature of the Iraqi threat? This charge assumes that reports prepared by the intelligence agencies are professionally crafted when presented to administration officials and that distortions begin at that point. Yet, the reports from the intelligence agencies might already have been manipulated.

Consider the CIA report of October 2002, "Iraq's Weapons of Mass Destruction Programs." It was released at a critical time when Congress was considering whether to authorize military operations. On 2 October, President Bush announced a bipartisan agreement on a joint resolution to authorize armed force against Iraq. He stated that Iraq "has stockpiled biological and chemical weapons."[90] In his address to the nation on 7 October, from Cincinnati, he said that Iraq "possesses and produces chemical and biological weapons."[91]

These remarks reflected an analysis prepared by the Central Intelligence Agency. The unclassified version, available on the CIA's web site (www.cia.gov), states unequivocally: "Baghdad has chemical and biological weapons. . . ." The impact of any report depends on its opening line. Readers are apt to skim the rest. Yet, the detailed analytical section that follows contradicts the flat assertion, providing statements that are much more cautious and qualified:

- "Iraq has the ability to produce chemical warfare (CW) agents within its chemical industry. . . ."
- "Iraq probably has concealed precursors, production equipment, documentation, and other items necessary for continuing its CW effort."
- "Baghdad continues to rebuild and expand dual-use infrastructure that it could divert quickly to CW production."
- "Iraq has the capability to convert quickly legitimate vaccine and biopesticide plants to biological warfare (BW) production and already may have done so."

None of the statements in the analytical section support the striking claim in the first paragraph of the CIA report and in Bush's statements to the nation.

[90] *Weekly Compilation of Presidential Documents*, 38: 1670 (2 October 2002).
[91] Ibid., 1716.

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The same gap between the front material and the internal analysis appears in a 28 May 2003 publication on mobile labs, jointly authored by the CIA and the Defense Intelligence Agency (DIA). Entitled "Iraqi Mobile Biological Warfare Agent Production Plans," the analysis can be found on CIA's web site. The first sentence asserts: "Coalition forces have uncovered the strongest evidence to date that Iraq was hiding a biological warfare program." The analysis within the report offers no evidence for that claim.

The purpose of the mobile labs remains under study. The CIA/DIA report concedes that some of the features of the labs "are consistent with both bioproduction [of BW agents] and hydrogen production" for artillery weather balloons. Clearly, much more analysis is necessary. What is evident now is that intelligence analysts prepared a report, complete with caveats and qualifications, and someone came along and put a screamer up front. Was the classified report more professional and nuanced? When it was decided to put an unclassified version on the web site, did someone think it important—with public consumption in mind—to select a more dramatic, eye-catching lead?

On 18 June 2003, Deputy Defense Secretary Paul Wolfowitz appeared before the House Armed Services Committee, where Rep. Gene Taylor (D-MS) asked whether the intelligence about the threat from Iraq's weapons was wrong. Taylor said he voted for the Iraq resolution because of the administration's warning that Iraq had weapons of mass destruction. He now told Wolfowitz: "A person is only as good as his word. This nation is only as good as its word. And if that's the reason why we did it—and I voted for it—then we need some clarification here." Wolfowitz replied: "If there's a problem with intelligence . . . it doesn't mean that anybody misled anybody. It means that intelligence is an art and not a science."[92]

That modest tone was absent during the debate on the Iraq resolution. The administration treated intelligence as a science, yielding certitude, not doubt. The position was not merely that Iraq had weapons of mass destruction in the past. Bush, Cheney, Rumsfeld, and other top administration officials insisted that Iraq currently had that capability, particularly chemical and biological weapons. According to their analysis, the threat was imminent, not in the future.

Congress should not allow any president to dictate the timing of a vote on war. Democracy depends on laws, but much more on trust. Constitutions and statutes are necessarily general in scope, placing a premium on judgment and discretion. Without confidence in what public officials say and do, laws are easily twisted to satisfy private ends. Leaders who claim to act in the national interest may, instead, pursue personal or partisan agendas. The opportunity for harm is especially great in the field of national security. Approximately $40 billion in secret funds are spent by the U.S. intelligence community. Its mission is to supply reliable analysis for policy makers, both executive and legislative,

[92] Walter Pincus and Dana Priest, "Lawmakers Begin Iraq Intelligence Hearings," *Washington Post*, 19 June 2003.

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including whatever caveats and qualifications are appropriate. When those reports are doctored, either before they leave the agency or afterwards, government is likely to blunder. In an age of terrorism, especially after September 11, the public needs full trust in the integrity of its elected leaders and in the intelligence agencies that guide crucial decisions. For all the sophistication of the U.S. political and economic system, if trust is absent, so is popular control. The United States cannot install democracy abroad if it lacks it at home.

Conclusions

U.S. political institutions failed in their constitutional duties when they authorized war against Iraq. The Bush administration never presented sufficient and credible information to justify statutory action in October 2002 and military operations in March 2003. Statements by executive officials were regularly punctured by press disclosures. The call to war demands a careful marshaling of evidence to build public confidence. The record of the Bush administration on warmaking created distrust of the spoken word and the declassified document. For its part, Congress failed to insist on reliable arguments and evidence before passing the Iraq resolution. There was no need for Congress to act when it did. Instead of passing legislation to authorize war, members of Congress agreed to compromise language that left the decisive judgment with the President. Placing the power to initiate war in the hands of one person was precisely what the Framers hoped to avoid when they drafted the Constitution.

Rather than proceed with deliberation and care, the two branches rushed to war on a claim of imminent threat that lacked credibility. The Bush administration never made a convincing case why the delay of a few months would injure or jeopardize national security. By acting hastily and without just cause, the administration did damage to what President Bush highlighted in his 12 September 2002 address: the relevance of the United Nations. Unwilling to wait an extra month or two to allow UN inspectors to continue their work, the Bush administration missed an opportunity to attract the support of other nations. In place of a multinational effort to remove Saddam Hussein and rebuild Iraq, the United States finds itself six months after the invasion almost solely responsible for an occupation that has uncertain goals, heavy costs, and open-ended duration.

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Judicial Uses of Subterfuge: Affirmative Action Reconsidered

DANIEL SABBAGH

Affirmative action is often criticized for being in conflict with two distinct principles frequently described as characteristic of the contemporary American legal and political order: the meritocratic principle and the principle of "color-blindness".[1] Because both of them may seem to be endorsed by a substantial majority of the American public,[2] this policy may trigger negative side effects, some of which derive from its very existence and some others from the revelation of its existence. Obviously, a situation in which affirmative action programs would be implemented without anyone knowing about it would eliminate negative side effects of the second kind. In this respect, I shall argue that some of the most important developments in the Supreme Court's case law on affirmative action and racial discrimination in general can be understood as reflecting a tendency to approximate the hypothetical end state that would result from the unknown implementation of affirmative action programs. Affirmative action is a policy that requires a measure of dissimulation to succeed.

[1] That those should qualify as genuine principles, however, remains a point of contention. On color-blindness, see Andrew Kull, *The Color-Blind Constitution* (Cambridge, MA: Harvard University Press, 1992); Anthony K. Appiah and Amy Gutmann, *Color-Conscious: The Political Morality of Race* (Princeton: Princeton University Press, 1996); David Strauss, "The Myth of Colorblindness" in Philip Kurland, Gerhard Casper, and Dennis Hutchinson, eds., *1986: The Supreme Court Review* (Chicago: The University of Chicago Press, 1986), 99–134; on meritocracy, see John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), 134; Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge, UK: Cambridge University Press, 1982), 19–24, 69–72, 77–87; Joel Feinberg, *Doing and Deserving* (Princeton: Princeton University Press, 1970); David Miller, "Two Cheers for Meritocracy," *The Journal of Political Philosophy* 4 (December 1996): 277–301; Michael Selmi, "Testing for Equality: Merit, Efficiency, and the Affirmative Action Debate," *UCLA Law Review* 42 (June 1995): 1251–1314.

[2] See David Miller, "Distributive Justice: What the People Think," *Ethics* 102 (April 1992): 558–564; Paul Sniderman and Edward Carmines, *Reaching Beyond Race* (Cambridge, MA: Harvard University Press, 1997), 99–139 and 22–27.

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While some scholars actually noticed the element of dissimulation involved in the legal and political discourse on affirmative action, most of them did so only in passing, and providing an account for its existence was not their main concern.[3] In contrast, this article attempts to fill this gap by jointly defending two claims. First, the very nature of what may be conceived as the ultimate goal of affirmative action—namely, the deracialization of American society, insofar as racial identification remains inextricably bound up with a constellation of inegalitarian assumptions—would make it counterproductive to fully disclose that policy's most distinctive and most contentious features—its nonmeritocratic component and the extent to which some of these programs take race into account. Second, in several Supreme Court decisions—the importance of which is widely acknowledged quite independently of the interpretative framework that I suggest—judges have made a significant, yet underappreciated, contribution to that rational process of minimizing the visibility and distinctiveness of race-based affirmative action.

DEFINITIONS

Originally, the phrase "affirmative action" did not have any specific connection with race. Its first occurrence in statutory law goes back to the New Deal era and the 1935 National Labor Relations Act, according to which an employer found to be discriminating against union members had to reinstate the workers unjustly discharged and "take other affirmative action" to compensate them for their loss of income.[4] In that context, what affirmative action meant remained largely unspecified; the phrase only pointed toward an effective intervention of some kind, as opposed to merely symbolic gestures or sheer passivity. Even in the 1964 Civil Rights Act outlawing racial discrimination in employment—later amended by the 1972 Equal Employment Opportunity Act—affirmative action

[3] See Hugh Davis Graham, *Collision Course: The Strange Convergence of Affirmative Action and Immigration Policy in America* (New York: Oxford University Press, 2002), 139–140; Jed Rubenfeld, "Affirmative Action," *Yale Law Journal* 107 (1997): 471–472; Keith Bybee, "The Political Significance of Legal Ambiguity: The Case of Affirmative Action," *Law and Society Review* 34 (no. 2, 2000): 267; Guido Calabresi and Philip Bobbitt, *Tragic Choices: The Conflict Society Confronts in the Allocation of Tragically Scarce Resources* (New York: Norton, 1978), 222; Gwénaële Calvès, *L'Affirmative action dans la jurisprudence de la Cour suprême: le problème de la discrimination "positive"* (Paris: LGDJ, 1998), 136–137; Nathan Glazer, "The End of Meritocracy," *The New Republic*, 27 September 1999, 28; Harvey Mansfield, Jr., "The Underhandedness of Affirmative Action" in Russell Nieli, ed., *Racial Preference and Racial Justice: The New Affirmative Action Controversy* (Washington, DC: Ethics and Public Policy Center, 1991), 130; Paul Mishkin, "The Uses of Ambivalence: Reflections on the Supreme Court and the Constitutionality of Affirmative Action," *University of Pennsylvania Law Review* 131 (March 1983): 928; Ronald Dworkin, "The Court and the University," *New York Review of Books*, 15 May 2003, 10; Jeffrey Rosen, "How I Learned to Love Quotas," *New York Times Magazine*, 1 June 2003. For a broader analysis of other less specific kinds of dissimulation in the Supreme Court case law, see Rogers Smith, "The Inherent Deceptiveness of Constitutional Discourse: A Diagnosis and Prescription" in Ian Shapiro and Robert Adams, eds., *NOMOS: Integrity and Conscience* (New York: New York University Press, 1998), 218–254.

[4] U.S. Congress, National Labor Relations Act, 29 U.S.C. 1935, section 151–158.

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appeared in that original sense only. It was a generic appellation for the still partly undefined set of remedial measures that the courts would be entitled to impose on those employers held to be guilty of persistent discrimination in violation of the newly enacted statute. Judges were invited to "order such affirmative action as may be appropriate, which may include, *but is not limited to*, reinstatement or hiring of employees, with or without back pay . . . *or any other equitable relief that the court deems appropriate.*"[5]

Contrary to what is often assumed, the reappearance of the expression "affirmative action" in President Lyndon Johnson's 1965 Howard University speech, as in Executive Order 10925 signed by John F. Kennedy on 6 March 1961 and Executive Order 11246 signed by Johnson on 24 September 1965, did not signal a departure from its original meaning. Far from announcing an upheaval in the official conception of antidiscrimination policy, affirmative action was still little more than a rhetorical ornament designed to convey the intensity of a stated commitment but intrinsically devoid of any substantial value. In Executive Order 10925, for instance, the expression was just one of several similar and apparently interchangeable formulas such as "affirmative steps," "positive steps," or "affirmative measures." This strongly suggests that affirmative action at this point was not meant to become the official name for a new governmental strategy of racial integration departing from the principle of nondiscrimination enshrined in the 1964 Civil Rights Act.[6] Such a strategy had simply not been elaborated yet.[7]

Besides, both in Executive Order 10925 and Executive Order 11246, affirmative action appeared within the frame of an injunction directed toward firms under contract with the federal government and requiring from them a special effort to abide by the principle of color-blindness. Thus, according to Executive Order 11246, the contracting firm was under the obligation to "take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color or national origin."[8] In other words, the contractor was asked to run the extra mile to check that race was not being taken into account one way or another, in contradistinction to contemporary, race-based affirmative action.

[5] U.S. Congress, Civil Rights Act of 1964, Title VII, section 706 (g). Words in italics are those that Congress added in 1972, mostly in order to legalize some of the first "affirmative action" programs in the more specific sense of that phrase.

[6] Title VII of the Civil Rights Act provides that "It shall be an unlawful employment practice for an employer . . . to fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin" (Civil Rights Act (1964). 42 U.S. Section 2003, section 703 section (a)).

[7] On the origins of contemporary affirmative action, see Hugh Davis Graham, *The Civil Rights Era: Origins and Development of National Policy, 1960–1972* (New York: Oxford University Press, 1990), 233–254, 278–297; John David Skrentny, *The Ironies of Affirmative Action: Politics, Culture, and Justice in America* (Chicago: The University of Chicago Press, 1996), 67–144. Executive Order 10925 is reprinted in United States Congress, House of Representatives, Committee on Education and Labor. Subcommittee on Employment Opportunities, *Report on Affirmative Action and the Federal Enforcement of Equal Opportunity Laws* (Washington, DC: U.S. Government Public Office, 1982), 5.

[8] 30 Federal Register. 12319 (1965). 3 C.F.R. 339, 340.

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Now such race-based affirmative action may itself be divided into two different kinds of programs. Thus, in the employment field, up to the end of the 1960s, affirmative action policies were mainly concerned with increasing the number of black applicants by running job advertisements in black newspapers or by setting up special training programs in areas where blacks were heavily concentrated.[9] This type of affirmative action—also known as outreach—did take race into account, but in a rather limited way. Race was allowed to enter the picture only within the preliminary process of enlarging the set from which individuals would be selected, not at the selection level itself.

However, in current affirmative action policies, the recruitment process is often entirely permeated by color-consciousness, even during the final decision stage. As a general matter, the expression "affirmative action" now refers to a wide array of measures initially set up at the end of the 1960s by executive agencies and the federal judiciary—and partly ratified by the 1972 Congress under the "any other equitable relief" formula[10]—which grant a more or less flexible kind of preferential treatment in the allocation of scarce resources—jobs, university admissions, and government contracts to the members of groups formerly targeted for legal discrimination. These groups are African Americans, Hispanics, Native Americans, women, and sometimes Asians. The phrase "preferential treatment" should not be understood as having any negative implication. It refers to a situation where, for example, a black applicant, B1, would be selected for a job (for which he or she is normally qualified in a minimal sense) inspite of there being at least one white applicant (W1) whose qualifications were deemed to be "higher." "Higher" means that if another black applicant, B2, came up with exactly the same qualifications as W1, the employer would have hired him instead of B1.[11] In other words, racial identification is the key factor here: B1 succeeds in obtaining the job he applied for and would have failed but for his being identified as black. Because this definition of affirmative action both captures the dominant meaning of the phrase as it is now being used in the American public debate and brings into relief the main subject of political and legal controversy, it will serve as a starting point for the argument that follows.[12]

[9] See Nathan Glazer, *Affirmative Discrimination: Ethnic Inequality and Public Policy* (New York: Basic Books, 1975), 196–197.

[10] See *Local 28, Sheet Metal Workers International Association v. Equal Employment Opportunity Commission*, 478 US 421 (1986), 445, 476; see also *United States v. Paradise*, 480 US 149 (1987), 186, 193–194 (holding that a judicially-imposed minority quota might count as an appropriate remedy for persistent racial discrimination by state actors under the Fourteenth Amendment's Equal Protection Clause).

[11] See Thomas Nagel, "Equal Treatment and Compensatory Discrimination" in Marshall Cohen, Thomas Nagel, and Thomas Scanlon, eds., *Equality and Preferential Treatment* (Princeton: Princeton University Press, 1977), 3.

[12] For other similar definitions of affirmative action by scholars whose research agendas are otherwise clearly different from mine, see Michel Rosenfeld, *Affirmative Action and Justice: A Philosophical and Constitutional Inquiry* (New Haven: Yale University Press, 1991), 47; Calvès, *L'Affirmative action dans la jurisprudence de la Cour suprême*, 3.

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Affirmative Action as an Instrument of Deracialization

As far as the ultimate goal of affirmative action is concerned, the most convincing definition is probably the one put forward by philosopher and legal scholar Ronald Dworkin almost twenty years ago.[13] In his view, that goal is the deracialization of American society, since race remains a defining feature of one's social identity in contemporary America, the economic advances of African Americans notwithstanding:[14] "American society is currently a racially conscious society; this is the inevitable and evident consequence of a history of slavery, repression and prejudice. Black men and women, boys and girls, are not free to choose for themselves in what roles—or as members of which social groups—others will characterize them. They are black, and no other feature of personality or allegiance or ambition will so thoroughly influence how they will be perceived and treated by others, and the range and character of the lives that will be open to them."[15]

Of special importance is the relationship between the distribution of the most gratifying social positions among racial groups in terms of both material and symbolic rewards and the permanence of racial categorization itself, a cognitive process resulting in countless disadvantages for black individuals. Since what makes racial categories relevant as providers of potentially useful information is mostly the way that they intersect with economic and occupational categories, improving blacks' economic and occupational predicament may eventually diminish the reliability of color as a proxy for social status. There-

[13] Insightful developments of a similar kind may be found in Owen Fiss, "Groups and the Equal Protection Clause," *Philosophy and Public Affairs* 5 (Winter 1976): 107–177; Cass Sunstein, "The Anti-Caste Principle," *Michigan Law Review* 92 (August 1994): 2410–2455. For an overview of these and other related arguments, see Andrew Koppelman, *Antidiscrimination Law and Social Equality* (New Haven: Yale University Press, 1996), 76–92. Other conceivable justifications for affirmative action policies include the notion that they offer a measure of compensation to the victims of past injustice and the idea that they help promote an intrinsically beneficial kind of diversity of a mostly cultural nature. Yet, both arguments raise insuperable difficulties: on the corrective justice argument, see Robert Fullinwider, "Preferential Hiring and Compensation" in Steven Cahn, ed., *The Affirmative Action Debate* (New York: Routledge, 1995), 81–90; Robert Simon, "Preferential Hiring: A Reply to Judith Jarvis Thompson" in Cohen, Nagel, and Scanlon, *Equality and Preferential Treatment*, 40–48; on the diversity argument, see E. John Gregory, "Diversity is a Value in American Higher Education, But It is Not a Legal Justification for Affirmative Action," *Florida Law Review* 52 (2000): 930–955; Eugene Lowe, ed., *Promise and Dilemma: Racial Diversity and Higher Education* (Princeton: Princeton University Press, 1999). Whether the Dworkinian argument—which, I believe, stands on much firmer ground—would fare well with the members of the groups that benefit from affirmative action is an interesting question; but I shall not explore it here.

[14] For some empirical data, see Abigail Thernstrom and Stephan Thernstrom, *America in Black and White: One Nation, Indivisible* (New York: Simon and Schuster, 1997), 183–202. But see also Dalton Conley, "Getting Into the Black: Race, Wealth, and Public Policy," *Political Science Quarterly* 114 (Winter 1999–2000): 595–612; *Being Black, Living in the Red* (Berkeley: University of California Press, 1999); Melvin Oliver and Thomas M. Shapiro, *Black Wealth/White Wealth: A New Perspective on Racial Inequality* (New York: Routledge, 1995).

[15] Ronald Dworkin, *A Matter of Principle* (Cambridge, MA: Harvard University Press, 1985), 294.

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fore, one ought to make a "calculation of strategy,"[16] according to which the immediate goal of affirmative action—an increase in the number of blacks working in occupations carrying power and prestige—should ultimately bring about a decrease in the degree of racial identification in the United States by reducing the existing correlation between color and social standing: "The tiny number of black doctors and other professionals is both a consequence and a continuing cause of American racial consciousness, one link in a long and self-fuelling reaction. . . . Professional association between blacks and whites will decrease the degree to which whites think of blacks as a race rather than as people, and thus the degree to which blacks think of themselves that way . . . to the point at which blacks may begin to think of themselves as individuals who can succeed like others through talent and initiative. At that future point the consequences of nonracial admissions programs, whatever these consequences might be, could be accepted with no sense of racial barriers or injustice."[17]

In this light, the relative concentration of blacks in the lower tiers of the economic and social hierarchy would now be largely responsible for the perpetuation of negative stereotypes as to blacks' natural inability to move beyond menial occupations, stereotypes that are bound to linger as long as their empirical basis remains.

A similar intuition can be found in Gunnar Myrdal's classic 1944 study, *An American Dilemma.* According to Myrdal, because all the basic factors of the "Negro Problem" were so deeply interwoven with each other, one could reasonably hope that altering just one of them would provoke "consecutive waves of back-effects," so that the impact of the initial impulse would be greatly enhanced, leading to the formation of a "virtuous circle"[18] of some kind: "White prejudice and discrimination keep the Negro low in standards of living, health, education, manners and morals. This, in turn, gives support to white prejudice. White prejudice and Negro standards thus mutually "cause" each other . . . Such a static "accommodation," however, is entirely accidental. If either of the factors changes, this will cause a change in the other factor, too, and start a process of interaction where the change in one factor will continuously be supported by the reaction of the other factor. The whole system will be moving in the direction of the primary change, but much further. This is what we mean by cumulative causation."[19]

[16] Ibid.

[17] Dworkin, *A Matter of Principle*, 294, 295. Hardly anyone would argue that the "future point" mentioned by Dworkin has already been reached. On the increase in race-consciousness initially experienced by many members of the black middle and upper-middle class, which may well testify simply to the yet incomplete character of their integration into a professional environment where the presence of nonwhites is still perceived as an anomaly of some kind, see Jennifer Hochschild, *Facing Up to the American Dream: Race, Class, and the Soul of the Nation* (Princeton: Princeton University Press, 1995), 73–78.

[18] Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy* (New York: Harper & Row, 1944), vol. 1, 75, 76.

[19] Ibid., 75–76.

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Within the frame of this social engineering approach, affirmative action may be conceived as a tool for modifying the second of Myrdal's factors—blacks' position in the hierarchy of income and occupation. The idea is that this improvement should trigger a chain reaction that would eventually produce "a cumulative effect upon [their] general status."[20]

Therefore, the Dworkin-Myrdal argument in favor of affirmative action is ultimately grounded on the assumption that the enduring saliency of race largely stems from the real informational value that skin color still retains in contemporary America, that value being itself derived from an empirically ascertainable inequality in the distribution of social goods between blacks and whites. In this light, eradicating the stereotypes that associate blackness with the more or less dysfunctional type of behavior to be expected from members of a group for whom equality of opportunity remains so imperfectly realized will require more than the enactment of antidiscrimination laws. These stereotypes and their cumulative effects will persist as long as their inadequacy as a source of practical guidance for moving around in the American social environment has not been exposed. Thus, by lessening the correlation between race and occupational status, affirmative action might help reduce the value of those stereotypes. The main goal would be to provoke a decrease in the number of instances where race would rightly appear to be a suitable indicator that self-interested actors would be well advised to take into account and where their doing so paves the way for a whole range of individual decisions by which black Americans would be negatively affected. Only then may one hope to achieve a color-blind society.

The Psychological Obstacle: Color-Blindness as a By-Product

The word "color-blindness" has at least two different meanings, although these are often conflated in the affirmative action debate. It may refer either to an actual end state whose realization is supposed to lie somewhere in the future or to an immediately valid and legally binding principle according to which one ought to act as if one were literally color-blind. Whether this latter prescription for color-blindness in a metaphorical sense is the best strategy for reaching color-blindness as a descriptive feature of the ideal society cannot be taken for granted.

But in any case, insofar as the real color-blindness that one would like to bring about consists in a general absence of consciousness of racial distinctions, it belongs to a category of mental states whose very definition imposes specific constraints. In particular, Jon Elster's perceptive analysis of those particular states suggests the impossibility of voicing Dworkin's justification for affirmative action without undermining the policy's effectiveness. States of this kind, like spontaneity or inattention toward a given object, "can never . . . be brought

[20] Ibid., 77.

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about intelligently or intentionally, because the very attempt to do so precludes the state one is trying to bring about."[21] Those states "are essentially by-products," since their generating process is necessarily unintentional: any deliberate attempt to induce them in one's own mind is bound to fail. In Elster's view, they include "sleep, . . . forgetfulness, . . . innocence, . . . gratitude, . . . love," and "self-esteem."[22] The defining feature that brings them together is a lack of intentionality, which is ontologically incompatible with the intention inherent in the desire to make them occur. In particular, when the target of desire is "a privative state" consisting in "the absence of a specific form of consciousness,"[23] that lack of consciousness cannot itself be the product of an act of consciousness. The project of deliberately removing a given thought or representation from one's mind is analytically self-defeating, "since it requires a concentration . . . that is incompatible with the absence of concentration one is trying to bring about."[24]

The state of color-blindness is precisely made of such an absence of concentration, since what it suggests is less a nonperception of differences in skin color than a kind of natural indifference toward color, which may be the object of a wish but cannot arise as the product of a specific intention. "It is plainly impossible to become indifferent the way Pascal thought you might become a believer, namely by pretending to believe."[25] Thus, color-blindness does seem to belong to those mental states "[which] have the property that they can only come about as the by-product of actions undertaken for other ends."[26]

This argument does not necessarily stand in opposition to Dworkin's conception of affirmative action as an instrument designed to bring about the deracialization of American society. Because Elster's reasoning unfolds mostly within the boundaries of a phenomenology of individual consciousness, the conditions under which it may be possible to promote the emergence of color-blindness as a social state deserve further examination.

Although Elster does not consider the issue of race, his work provides some useful insights. Commenting on "the widespread tendency to erect into goals for political action effects that can only be by-products," he suggests that it might still be possible, in some circumstances at least, to use "indirect strategies."[27] Unlike the individual attempting "to induce in himself a state that turns out to resist deliberate induction," the one who tries "to set up in another a

[21] Jon Elster, *Sour Grapes: Studies in the Subversion of Rationality* (Cambridge, UK: Cambridge University Press, 1983), 43.

[22] Ibid., 43; Jon Elster, *Psychologie politique (Veyne, Zinoviev, Tocqueville)* (Paris: éd. de Minuit, 1990), 51; Jon Elster, "Is There (or Should There Be) a Right to Work?" in Amy Gutmann, ed., *Democracy and the Welfare State* (Princeton: Princeton University Press, 1988), 74.

[23] Elster, *Sour Grapes*, 46.

[24] Ibid., 45.

[25] Elster, *Psychologie politique*, 76, 92.

[26] Elster, *Sour Grapes*, 43.

[27] Ibid., 44; Elster, *Psychologie politique*, 50.

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state that is essentially a by-product" is not necessarily bound to fail. "If the intention of reaching X by doing Y is incompatible with X, in order to reach X, one would have to hide to oneself that Y is done with that specific intention." No doubt this is a very difficult, if not impossible, task; yet, "the intention of misleading someone else as to one's own intentions surely is not as paradoxical, . . . since it is possible to do that without deceiving oneself."[28] In short, assuming the state to be reached is considered desirable enough to justify setting up "a complex causal machinery"[29] to that end, the only requirement would seem to be that the true function of such a contrivance should not be recognized as such. Elster's line of analysis thus reinforces the hypothesis according to which affirmative action as being part and parcel of a deliberate attempt at reducing the degree of racial identification in the United States must be concealed in order to achieve its intended effect. However, in contrast with the examples mentioned by him, the paradox here lies not in the existence of such an attempt but in its being made explicit to the agents whose representations of race are supposed to be altered in the process and who therefore must be considered as an audience distinct from the elite presumably responsible for this project of cultural transformation. As Elster points out, the only option one ought to dismiss as "pragmatically inconsistent" would be to "publicly advocate the introduction [of a given policy] because of the side effects that would follow in its wake. . . ."[30] Their occurrence precisely depends on the availability of other motives for supporting the policy that the people involved might share. In this respect, one of the key issues at stake in the political and legal debate on affirmative action is the definition of the motives that will thus become available.

The Problem of Visibility: Are Negative Side Effects Avoidable?

Aside from the difficulties involved in stating explicitly what the ultimate goal of affirmative action should be, attempts to reach that goal may also be frustrated by some negative side effects specifically induced by the visibility of such programs. For any decision unit looking forward to the realization of a color-blind society, to openly acknowledge the existence of a policy benefiting members of a few, officially identified, ethnoracial[31] groups will entail risks that it would be unwise to dismiss ex ante. Because affirmative action programs may generate hostile attitudes toward their intended beneficiaries beyond those already in place—the existence of which was the main reason for the implementation of such programs—it is tempting to dissimulate their most contentious features. In this light, the purpose of affirmative action—to reduce the saliency of racial categories in American society—would make it appropriate to conceal

[28] Elster, *Sour Grapes*, 60; Elster, *Psychologie politique*, 51.

[29] Elster, *Sour Grapes*, 56.

[30] Ibid., 60, 84.

[31] On the meaning and usefulness of this term, see David Hollinger, *Postethnic America: Beyond Multiculturalism* (New York: Basic Books, 1995), 19–50 .

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how the policy really works. In order for affirmative action to reach its objective of curbing negative stereotypes about blacks through a planned improvement of their economic and occupational status, it would make things easier if the unusualness of the measures involved and their antimeritocratic component went unnoticed.[32]

Beside those negative side effects specifically related to the antimeritocratic dimension of affirmative action, the extent of which can easily be exaggerated, the very fact of acknowledging the existence of a system of allocation taking account of race may well jeopardize the deracialization that one is trying to bring about in the long run. It is conceivable that by openly integrating race into the decision process and therefore confirming its meaningfulness without being able to impose a common understanding of the meaning involved, affirmative action should rigidify and relegitimize the racial cleavages that the policy was meant to eradicate. In order to cope with that specific problem, it might be necessary to resort to various kinds of subterfuges.

These are not sheer speculations. Several social psychology studies relevant to assessing the different procedures designed to increase interracial contact do emphasize the risks involved in reaffirming the importance of race as a structuring factor accounting for the agents' presence in the institutional space where (positive) racial interactions are expected to take place.[33] So long as the criterion of race is seen to operate at the preliminary stage of identifying the participants in the interaction process, it remains unlikely that racial decategorization will occur. Thus, in order to get over this obstacle and increase the probability of success, one should deliberately downplay the role held by race in the causal process leading to that interaction, especially in view of the existing inclination to perceive black individuals as specimens of their racial group. In short, the effectiveness of the intervention undertaken depends on the existence of "a properly synchronized self-erasing process"[34] designed to extract its very occurrence from the mind of the agents whose perceptions one wishes to transform. The success of affirmative action would thus be proportional to the decision-makers' ability to disguise how the policy actually operates.[35]

[32] That the mere mention of the existence of affirmative action programs actually tends to reinforce such stereotypes is suggested in Paul Sniderman and Thomas Piazza, *The Scar of Race* (Cambridge, MA: Harvard University Press, 1993), 97–104; Sniderman and Carmines, *Reaching Beyond Race*, 37–40.

[33] See Marylin Brewer and Norman Miller, "Contact and Cooperation: When Do They Work?" in Phyllis Katz and Dalmas Taylor, eds., *Eliminating Racism: Profiles in Controversy* (New York: Plenum Press, 1988), 320, 324; Myron Rothbart and Oliver P. John, "Social Categorization and Behavioral Episodes: A Cognitive Analysis of the Effects of Intergroup Contact," *Journal of Social Issues* 41 (no. 3, 1985): 95–96; Thomas Krull and Robert Wyer, "Category Accessibility and Social Perception: Some Implications for the Study of Person Memory and Interpersonal Judgments," *Journal of Personality and Social Psychology* 38 (June 1980): 841–856.

[34] Elster, *Sour Grapes*, 58.

[35] Of course, one may fail in trying to do so. Thus, legal scholar Cass Sunstein has made the plausible, though empirically unsubstantiated, suggestion that part of the current hostility toward affirmative action may well stem from a widespread perception and resentment of that policy's lack of transparency. See Cass Sunstein, *One Case at a Time: Judicial Minimalism on the Supreme Court* (Cambridge, MA: Harvard University Press, 1999), 130.

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Among the negative side effects one may consider, the most dangerous one is probably the additional stigma inflicted on the intended beneficiaries of affirmative action programs.[36] Insofar as such policies logically imply an acknowledgment of the fact that those who benefit from the preference involved would not have gained the position they eventually did gain without it, isn't there a risk of fostering the suspicion that they are not fully qualified for such positions? Since it is generally impossible to draw a line among the potential beneficiaries of affirmative action between those who take advantage of it and those whose qualifications are already high enough to make any kind of preferential treatment appear entirely unnecessary, there is a chance that the aggregate level of stigma experienced by blacks as a whole would still increase as a result of the race-specific nature of the policy.

Of course, the difficulty is assessing the extent of that additional effect of stigmatization specifically related to the visibility of affirmative action as compared with the stigma already attached to blackness as such. The policy may still help reduce that stigma in the long run, once all its consequences are taken into account. Most of the relevant studies conducted in the field of social psychology, however, do suggest that this additional effect of stigmatization is not hypothetical.[37] The fact of officially defining among all competing applicants one or several categories of "potential beneficiaries of affirmative action" may actually have a negative impact on their relationships with those who remain outside of this newly created ensemble. In particular, several experiments have shown that once the category "black" has been activated by an exogenous source of information, such as the announcement of an affirmative action program at a given firm or university to benefit blacks among others, individuals become more inclined to use that category as an "anchoring ground for their interpretations and assessments."[38] In other words, the activation threshold of the category becomes lower still.[39]

[36] This point has been raised in several Supreme Court decisions. See *Regents of the University of California v. Bakke*, 438 US 265 (1978), 398 (opinion of Justice Powell), 360 (opinion of Justice Brennan); *United Jewish Organizations v. Carey*, 430 US 144 (1977), 173–174 (opinion of Justice Brennan); *Fullilove v. Klutznick*, 448 US 448 (1980), 545 (dissenting opinion of Justice Stevens); *City of Richmond v. Croson*, 488 US 469 (1989), 493 (opinion of Justice O'Connor).

[37] See Linda Hamilton Krieger, "The Content of Our Categories: A Cognitive Bias Approach on Discrimination and Equal Employment Opportunity," *Stanford Law Review* 47 (July 1995): 1161–1248 (reviewing a substantial portion of the relevant literature); Linda Hamilton Krieger, "Civil Rights Perestroika: Intergroup Relations After Affirmative Action," *California Law Review* 86 (December 1998): 1264–1270; John W. Howard and Myron Rothbart, "Social Categorization and Memory for In-Group and Out-Group Behavior," *Journal of Personality and Social Psychology* 38 (February 1980): 303–306; Madeleine Heilman, Caryn Block, and Jonathan Lucas, "Presumed Incompetent: Stigmatization and Affirmative Action Efforts," *Journal of Applied Psychology* 77 (August 1992): 536–545; Rupert Nascoste, "Sources of Stigma: Analysing the Psychology of Affirmative Action," *Law and Policy* 12 (April 1990): 175–195; Rupert Nascoste, "Social Psychology and Affirmative Action: The Importance of Process in Policy Analysis," *Journal of Social Issues* 43 (no. 1 1987): 127–132.

[38] Michel Dobry, *Sociologie des crises politiques* (Paris: Presses de la FNSP, 1986), 198.

[39] See Rothbart and John, "Social Categorization," 96.

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It would be unwise to dismiss the possibility that the distinctions among applicants reinstitutionalized by affirmative action should come to be understood as an implicit confirmation of the validity of racial and gender negative stereotypes. These distinctions may give the impression that they are actually shared by the authorities responsible for establishing the programs.[40] In order for the elevation of minority group members in the economic and occupational hierarchy to be taken as evidence of how inaccurate those stereotypes are, one should not be able to dismiss their success as resulting from an antimeritocratic scheme specifically designed to that end. The fact that it is common knowledge that blacks and other disadvantaged minorities are receiving some kind of special treatment and are not selected only on their qualifications may well modify the social meaning of their gaining access to top-rank positions. To put it more bluntly, an assessment such as "He's an Ivy League graduate; he must be a very bright fellow" may turn into something like "He's a black Ivy League graduate; maybe he wouldn't have gotten where he is now but for affirmative action." Needless to say, that second assessment may trigger very different anticipations about the performance of the individual thus identified, and those anticipations may lead to discriminatory practices of their own kind, as pointed out by Supreme Court Justice Antonin Scalia:

> To put the issue to you in its starkest form: if you must select your brain surgeon from recent graduates of . . . [a] medical school [with an affirmative action program] and have nothing to go on but their names and pictures, would you not be well advised—playing the odds—to eliminate all minority group members? It is well known to the public that the outstanding institutions of higher education graduate the best and the brightest principally through the simple device of admitting only the best and the brightest. . . . Thus, insofar as "public image" is concerned, the immediate and predictable effect of affirmative action is to establish a second-class "minority" degree which is a less certain certificate of quality. . . ."[41]

Though it would be difficult—perhaps impossible—to demonstrate the existence of a deliberate attempt by other judges partly responsible for the institutionalization of affirmative action to systematically minimize the negative side effects specifically related to the visibility of such programs, the element of dissimulation involved in some of the most crucial legal developments in this area is nonetheless striking, as the two following examples will show.

[40] In this respect, see the dissenting opinion by Justice Stevens in *Fullilove v. Klutznick*, 545. See also Luis Garcia, Nancy Erskine, Cathy Hawn, and Susan Casmey, "The Effects of Affirmative Action on Attributions about Minority Group Members," *Journal of Personality* 49 (December 1981): 427–437; Russell Summers, "The Influence of Affirmative Action on Perceptions of a Beneficiary's Qualifications," *Journal of Applied Social Psychology* 21 (August 1991): 1265–1277.

[41] Antonin Scalia, "The Disease as Cure: 'In Order to Get Beyond Racism, We Must First Take Account of Race'" in Nieli, *Racial Preference and Racial Justice*, 279.

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Griggs v. Duke Power Company

In the 1971 decision *Griggs v. Duke Power Company*, the Supreme Court declared that the ban on employment discrimination included in the Civil Rights Act of 1964, far from prohibiting only the most blatant forms of intentional discrimination, also applied to recruitment procedures that were "fair in form but discriminatory in operation," such as hiring tests which, though "neutral on their face," would have the effect of "freez[ing] the status quo of prior discriminatory employment practices" because of their "adverse impact" on blacks and other disadvantaged minority groups.[42] From then on, any statistically significant discrepancy in the racial distribution of the workforce traceable to one or several hiring criteria that could not be justified on grounds of "business necessity" were to be held illegal. As a result, the meaning of the word "discrimination" in the employment context underwent a dramatic expansion. The Supreme Court included within the purview of Title VII all forms of indirect discrimination, that is, recruitment practices that do not rely on any of the unlawful grounds for employment decisions enumerated in the Civil Rights Act (race, color, religion, sex, or national origin) but still work to the disadvantage of a disproportionate number of minority group members regardless of the employer's actual motivations. Thus, since minority employment figures had become the database against which "discrimination" was to be measured, "anti-discrimination" was now officially conceived as a group-centered, results-oriented policy.

Of course, one of the reasons why measures aimed at promoting racial equality by increasing black employment had to be predicated upon findings of past discrimination was that they were being set up and implemented by executive agencies and to a certain extent by the judiciary. These institutions' self-conceptions include a general claim to interpret and enforce the law as it is. Therefore, in order for their prescriptions to withstand charges of illegitimate intrusion into the legislative domain, the measures had to be presented as a remedy for the infringement of a law already passed by Congress—the 1964 Civil Rights Act. The only solution was to define the situation one wished to modify—for example, underrepresentation of blacks in the workforce of a given firm—as a result of discrimination. Yet, there was a growing number of cases where underrepresentation could not be ascribed to intentional discrimination by the employer, but instead originated in structural factors beyond the reach of either the agencies or the courts—namely, the persistence of gross inequalities in the public education system and high levels of de facto school and residential segregation. Therefore, the notion of discrimination itself had to be dissociated from any idea of intentionality. In the words of legal scholar and former Equal Employment Opportunity Commission (EEOC) administrator Alfred Blumrosen, "[if we embrace the view that] find[s] discrimination at

[42] *Griggs v. Duke Power Company*, 401 US 424 (1971), 431, 430.

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every turn where minorities are adversely affected by institutional decisions, which are subject to legal regulations, . . . the solution lies within our immediate grasp. . . . In this view, we are in control of our own history."[43]

Thus, since EEOC officials are not particularly inclined to proclaim their impotence, the only option remaining at their disposal, endorsed by the Supreme Court in the *Griggs* decision, was to broaden the concept of discrimination to make it apply to all practices that turned out to exclude a disproportionate number of minority group members, whether intentionally or not.[44]

Although there is much truth in this conventional account of the *Griggs* case, the decision can also be read in line with the interpretative framework suggested above, since such an expansion of the notion of discrimination amounts to erasing the analytical distinction between antidiscrimination policy and affirmative action. This is so because, as a practical matter, banning all kinds of indirect and presumably unintentional discrimination requires the selection of a limited number of reference groups within which all individuals will enjoy a specific kind of protection not available to members of other conceivable groups. Given that many collectives may aspire to such protection, a criterion will be needed for demarcating the subset of those who will be insulated from the disparate impact that current hiring practices might have on their members.

What is this criterion? Considering the *Griggs* decision as well as other related cases,[45] the answer is pretty straightforward: everything hinges on whether one belongs to a group that was targeted for official, intentional discrimination in the past.[46]

In order to fully grasp this point, let us consider the following observation. In principle, since there is no institutional device for equalizing the cost of affirmative action among those upon whom it inflicts some kind of penalty, that policy itself may well have a disparate impact on some identifiable subgroups within the larger group of non-beneficiaries. In that case, it would be quite logical to design another compensatory mechanism geared specifically toward reducing the inequality produced by the new discrimination, however indirect and unintentional it may be. Strikingly enough, the issue was raised only once, and precisely when the group specifically disadvantaged by affirmative action had also suffered widespread intentional discrimination in the past—namely,

[43] Alfred Blumrosen, *Black Employment and the Law* (New Brunswick, NJ: Rutgers University Press, 1971), viii.

[44] See Kull, *The Color-Blind Constitution*, 204–206.

[45] *United Steelworkers v. Weber*, 443 US 193 (1979); *Johnson v. Santa Clara Transportation Agency*, 480 US 616 (1987). On *Weber*, see Bernard Meltzer, "The *Weber* Case: The Judicial Abrogation of the Antidiscrimination Standard in Employment," *University of Chicago Law Review* 47 (Spring 1980): 423–466; William Eskridge, Jr., *Dynamics of Statutory Interpretation* (Cambridge, MA: Harvard University Press, 1994), 14–31, 33–44; on *Johnson*, see Daniel Sabbagh, *L'Affirmative Action aux États-Unis: Construction juridique et enjeux politiques des dispositifs de lutte contre l'inégalité et la discrimination raciales* (Ph.D. dissertation, Institut d'études politiques de Paris, 2000) 123–125, 222.

[46] See *Griggs v. Duke Power Company*, 431.

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Asian-American students, whose stronger academic credentials made them particularly vulnerable to any departure from a purely meritocratic rule in university admissions.[47] This can be seen as an indirect confirmation of the fact that the *Griggs* theory of discrimination as disparate impact only applies to the members of groups formerly discriminated against in the pre-1971 meaning of the word "discrimination."

If the notion of discrimination is stretched to the point of including all practices that turn out to exclude a disproportionate number of blacks, Hispanics, or women, doesn't the distinction between antidiscrimination and affirmative action as defined at the beginning of this article become quite tenuous? Insofar as the *Griggs* decision has the effect of insulating some groups of applicants from the negative consequences that normal hiring practices have upon them, both affirmative action and the enforcement of antidiscrimination law do establish a difference of treatment for the benefit of collectivities formerly confronted with various forms of legal discrimination. The distinction lies only in the social meaning ascribed to that difference of treatment.

At the beginning of the 1970s, because the average level of qualification among blacks was significantly lower than among whites as a result of school segregation, there were a host of cases where any color-blind recruitment procedure would have proved discriminatory under the *Griggs* principle. Therefore, an employer determined to reach a nondiscriminatory result had no other choice but to differentiate his requirements somehow according to the race of the applicant, a differentiation that could be made more or less explicit.[48] "Affirmative action" is the name usually given to that kind of differentiation, when it is openly acknowledged as such. On the other hand, the *Griggs* theory of discrimination conceals the specificity of the treatment awarded to some, but not all minorities. Since a large number of hiring practices—presumably devoid of any discriminatory intent—now appear as being "discriminatory in operation,"[49] a corrective action of some kind surely is in order. Instead of being conceptualized as an exception made on behalf of certain groups currently unable for one reason or another to cope with the "normal" conditions of the labor market, that corrective action can then be justified by appealing to the supposedly consensual goal of fighting discrimination in accordance with the 1964 Civil Rights Act. How could anyone possibly oppose the battle against discrimi-

[47] On the decrease in the Asian-American admission rate registered at several elite universities during the first half of the 1980s, see Grace Tsuang, "Assuring Equal Access of Asian Americans to Highly Selective Universities," *Yale Law Journal* 98 (January 1989): 660–661; also see Selena Dong, "Too Many Asians: The Challenge of Fighting Discrimination Against Asian Americans and Preserving Affirmative Action," *Stanford Law Review* 47 (May 1995): 1027–1057; Dana Takagi, *The Retreat from Race: Asian-American Admissions and Racial Politics* (New Brunswick, NJ: Rutgers University Press, 1992).

[48] See also Desmond King, *Separate and Unequal: Black Americans and the US Federal Government* (Oxford, UK: Clarendon Press, 1995), 209.

[49] *Griggs v. Duke Power Company*, 431.

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nation without losing all political credibility? Therefore, the fact of labeling as "discrimination" all hiring practices responsible for any significant departure from an implicit standard of racial proportionality in the distribution of the workforce allowed judges to avoid having both to acknowledge and to justify the existence of that standard and the special treatment of members of underrepresented groups that followed. The element of discontinuity between the Civil Rights Act of 1964 and the introduction of affirmative action policies could thus be obliterated.[50]

If we consider now affirmative action strictly speaking, perhaps the clearest example of dissimulation by judges of both its antimeritocratic component and the extent to which race is taken into account in some of these programs can be found in another famous Supreme Court decision dealing with university admissions.[51]

Regents of the University of California v. Bakke

This case deserves to be closely examined, in part because of its seminal influence on the development of what remains the most popular justification for affirmative action programs: they help promote some supposedly beneficial diversity. Considering the effects that public discourse, in particular the many political and legal justifications put forward in favor of the policy, may trigger, Justice Lewis Powell's opinion in *Bakke* may be understood as reflecting an awareness of those anticipated effects strong enough to actually shape the views he ends up endorsing. The success of affirmative action from the deracialization perspective will ultimately depend in part on how the policy is perceived by the agents directly or indirectly affected by its existence. Given that those perceptions are naturally influenced by relevant political and legal statements, I argue that, in some cases—*Bakke* being the paradigm—judges tend to modulate their own discourse according to its likely impact on the ability of affirmative action to effectively forward the advent of a deracialized society, as if their arguments were actually premised upon an instrumental calculation unsupported by legal reasoning.

In *Bakke*, the main issue was whether the affirmative action program set up by the Medical School of the University of California at Davis under which 16 percent of each freshmen class had to be made up of minority students (blacks, Asians, Chicanos, and Native Americans) was constitutionally valid. The Supreme Court, through the opinion of Justice Lewis Powell, eventually struck down that quota as violating the Equal Protection Clause of the Four-

[50] On *Griggs v. Duke Power Company*, see also Richard Epstein, *Forbidden Grounds: The Case Against Employment Discrimination Laws* (Cambridge, MA: Harvard University Press, 1992), 193–200, 212–216.

[51] *Regents of the University of California v. Bakke* (1978). There are other such examples: On *City of Richmond v. Croson* (488 US 469, (1989)) see Ian Ayres, "Narrow Tailoring," *UCLA Law Review* 43 (August 1996): 1786–1799. On *Shaw v. Reno* 509 US 630 (1993) see Morgan Kousser, *Color-Blind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (Chapel Hill: University of North Carolina Press, 1999), 366–396.

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teenth Amendment.[52] Powell insisted that race and ethnicity might still be taken into account in university admissions, provided that it be in a flexible and individual-centered way as part of a legitimate concern for promoting the "diversity" of the student body.

Many legal scholars found that argument unpersuasive.[53] The most significant aspect of Justice Powell's opinion is probably its diversionary function. By pretending to include race in a larger set of similarly relevant informational data, Powell actually seeks to redefine the meaning of its being taken into account in university admissions in a more benign way. In this light, just as diversity in the applicants' geographical origins as well as in their academic and extra-academic interests and talents is usually considered in admission decisions, racial diversity should be viewed as one more component of the kind of global diversity traditionally favored by university officials: ". . . the nature of the state interest that would justify consideration of race or ethnic background . . . is not an interest in simple ethnic diversity, in which a specified percentage of the student body is in effect guaranteed to be members of selected ethnic groups, with the remaining percentage an undifferentiated aggregation of students . . . Genuine diversity . . . the diversity that furthers a compelling state interest, encompasses a far broader array of qualifications and characteristics of which racial or ethnic origin is but a single though important element."[54] Thus, ". . . the race of an applicant may tip the balance in his favor just as geographic origin or a life spent on a farm tip the balance in other candidates' cases. A farm boy from Idaho can bring something to Harvard College that a Bostonian cannot offer. Similarly, a black student can usually bring something that a white person cannot offer."[55]

In short, race may enter the selection process provided it does not enjoy a dominant position; it must compete with other diversity-enhancing features, the number of which is not limited in advance. In theory, the distinctive qualities of all applicants ought to be submitted to an informal, comparative assessment, irreducible to the mere enforcement of a specific rule: "In such an admissions program, race or ethnic background may be deemed a 'plus' in a particular applicant's file, yet it does not insulate the individual from comparison with all other candidates for the available seats. The file of a particular black applicant may be examined for his potential contribution to diversity

[52] Powell's opinion determined this case because the other eight justices were evenly divided between defenders (William Brennan, Harry Blackmun, Thurgood Marshall, and Byron White) and opponents (Warren Burger, William Rehnquist, Potter Stewart, and John Paul Stevens) of race-based affirmative action programs in university admissions; see Bernard Schwartz, *Behind Bakke: Affirmative Action and the Supreme Court* (New York: New York University Press, 1988), 143–146.

[53] See, for instance, Dworkin, *A Matter of Principle*, 313–314; Richard Posner, "The *Bakke* Case and the Future of 'Affirmative Action,'" *California Law Review* 67 (January 1979): 171–189.

[54] *Regents of the University of California v. Bakke*, 438 US 265 (1978), 315.

[55] Ibid., 316. That quote is taken from what was then the Harvard undergraduate affirmative action plan, a program Powell found constitutionally admissible and presented as a model for public universities.

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without the factor of race being decisive when compared, for example, with that of an applicant identified as an Italian-American if the latter is thought to exhibit qualities more likely to promote beneficial educational pluralism."[56]

Thus, only the official segregation of applicants into separate admission tracks on account of their race would be forbidden: "This kind of program [the constitutionally admissible one] treats each applicant as an individual in the admissions process. The applicant who loses out on the last available seat to another candidate receiving a 'plus' on the basis of ethnic background will not have been foreclosed from all consideration for that seat simply because he was not the right color. . . . [His failure] would mean only that his combined qualifications, which may have included similar non-objective factors, did not outweigh those of the other applicant. His qualifications would have been weighed fairly and competitively, and he would have no basis to complain of unequal treatment under the Fourteenth Amendment."[57]

Powell is less specific as to the criteria that ought to be used in making such an assessment. While he suggests that the affirmative action program must be "flexible enough to consider all pertinent elements of diversity in light of the particular qualifications of each applicant and place them on the same footing for consideration," at the end of the day, one should not "necessarily accord them the same weight." "Indeed," he argues, "the weight attributed to a particular quality may vary from year to year depending upon the 'mix' both of the student body and the applicants for the incoming class."[58] In other words, instead of viewing every new class of students as a conglomerate of individuals brought together without anyone considering the properties of the ensemble made up by their aggregation, ideally each admission decision should be able to take into account all the other ones, in order for the final product of their combination to present some specific features held to be desirable ex ante. Since the entity within which the degree of diversity should be the highest possible—other things being equal—is the student population as a whole, the desirability of each personal attribute at the microdecisional level is bound to fluctuate endlessly, according to its relative scarcity and to the "social added value" that it would thus be able to bring. In this respect, race would be treated just as all the other distinctive features already taken into account by admissions committees beyond applicants' test scores and past academic performance. Affirmative action would then stand as just one more marginal deviation from a largely fictitious meritocratic rule. The legitimization of that policy thus proceeds through its reinsertion into a preexisting tradition by which university officials enjoy a substantial amount of discretionary power to select members of the student body according to the requirements of diversity promotion. The notion of diversity is simply expanded to include race among its constitutive

[56] *Regents of the University of California v. Bakke*, 317 (footnote omitted).
[57] Ibid., 318.
[58] Ibid., 317–318.

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elements, as stated by the president of Harvard College quite explicitly—in an amicus curiae brief quoted in Powell's opinion: "The belief that diversity adds an essential ingredient to the educational process has long been a tenet of Harvard college admissions. Fifteen or twenty years ago, however, diversity meant students from California, New York, and Massachusetts; . . . violinists, painters and football players. . . . In recent years, Harvard College has expanded the concept of diversity to include students from disadvantaged . . . ethnic and racial groups. Harvard College now recruits not only Californians or Louisianans but also blacks and Chicanos."[59]

Conceiving of diversity as a multidimensional good and race as just one of its dimensions allows for a trivialization of affirmative action, which may reduce the risk that its race-conscious component should actually contribute further to stigmatize its intended beneficiaries.

It is tempting to read Powell's opinion in this light, for the actual operation of the "flexible" affirmative action programs that he finds constitutionally admissible does not match his description of them. In most cases, though race is supposed to be but one among many objective features capable of contributing to diversity, it is monitored throughout the admissions process in a more systematic way than any other one. As applications are being handled by admissions committees, officials from the admissions office generally run statistical projections in order to anticipate the ethnoracial profile of the incoming class. They readily make ex post facto adjustments if the likely proportion of black and Hispanic students falls beneath a certain threshold. To follow up on an example mentioned above, the percentage of violinists or painters among Harvard students—or even the percentage of individuals from a specific state—may undergo wild fluctuations without anyone noticing. This is not the case with blacks and Hispanics.[60]

The contrast is stark between the amount of attention that university officials devote to keeping track of the numbers of black and Hispanic students enrolled every year and their weaker commitment or outright indifference toward other kinds of diversity, which would probably contribute as much to that fruitful exchange of "experiences, outlooks and ideas" celebrated by Justice Powell.[61] This applies both to religious diversity[62] and to political/ideological

[59] "Brief of President and Fellows of Harvard College," *Amicus Curiae, DeFunis v. Odegaard*, 416 US 312 (1974), 15 (quoted in *Regents of the University of California v. Bakke*, 322).

[60] At least as much can be gathered from most empirical studies currently available. For an example, see Patricia Conley, "The Allocation of College Admission" in Jon Elster, ed., *Local Justice in America* (New York: Russell Sage Foundation, 1995), 59–60. In particular, there are reasons to believe that the advantage enjoyed by blacks and Hispanics in university admissions is usually larger than the one often awarded to athletes and children of alumni. See Richard Kahlenberg, *The Remedy: Class, Race, and Affirmative Action* (New York: New Republic Books/Basic Books, 1996), 241.

[61] *Regents of the University of California v. Bakke*, 314.

[62] However, a public university seeking to promote religious diversity in the selection of its student body would be prevented from doing so by the First Amendment. See Eugene Volokh, "Diversity, Race as Proxy, and Religion as Proxy," *UCLA Law Review* 43 (August 1996): 2070–2072.

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diversity, the latter perhaps most directly related to the diversity of opinions presumably beneficial in the academic sphere. To a certain extent, the same holds true with respect to the diversity of national origins among students, a factor even more unjustified to overlook under Powell's supposedly "open" and individual-centered concept of diversity. Most Hispanics and Asians tend to define themselves in reference to nationality, rather than to their membership in ethnoracial groups.[63]

There are many axes of differentiation related to the opinions voiced by every individual student—race, religion, party identification, and place of residence, to name but a few. The notion of diversity alone does not provide any clue about which of them should get more attention from university officials. The focus on race, while leaving aside other conceivable criteria for social classification, does stand as an arbitrary restriction, at least within the diversity paradigm. In order to justify such a discriminatory selection, one will need to fall back on political judgment. Implicit choice may be grounded on the empirical fact that the presence of a significant number of black and Hispanic students remains the kind of diversity least likely to obtain as a side effect of admissions procedures. Yet, that argument would require emphasizing the special status of ethnoracial identity as opposed to the applicants' other distinctive features. Powell's solution was precisely designed to avoid singling out race in that way and thus reduce the specificity of affirmative action as perceived by the American public.

The goal of diversity promotion, far from being the *raison d'être* of either the development of affirmative action programs in university admissions or their ambiguous ratification in *Bakke*, emerged only as the product of some ex post facto rationalization entirely ineffective aside from its specific function. This comes out quite clearly in later Supreme Court decisions, most notably in the 1996 *United States v. Virginia*.[64] The issue at stake was whether the decision by the Virginia Military Institute (VMI) not to admit women should be struck down as a violation of the Equal Protection Clause. To justify the exclusion of female students, VMI had emphasized the public interest in preserving enough "diversity in educational approaches" by allowing those institutions of higher education geared toward providing a training for which the student body supposedly needed to retain an homogeneity of some kind to proceed as they saw fit.[65] Yet, this argument in favor of a pluralist conception of diversity allowing for the coexistence of both an intrainstitutional and an interinstitutional variety was eventually rejected by the Supreme Court under a reasoning that makes

[63] See Rodolfo de la Garza, et. al., *Latino Voices: Mexican, Puerto Rican, and Cuban Perspectives on American Politics* (Boulder, CO: Westview, 1992), 40; Ronald Takaki, *Strangers from a Different Shore: A History of Asian Americans* (Harmondsworth, UK: Penguin Books, 1990), 421, 432; Miranda Oshige McGowan, "Diversity of What?" *Representations* 57 (Summer 1996): 133.

[64] For another case in point, *Metro Broadcasting, Inc. v. Federal Communications Commission et. al.* (497 US 547 (1990), see Sabbagh, *L'Affirmative Action aux États-Unis*, 554–555.

[65] *United States v. Virginia*, 522 US 116 (1996) in Donald P. Kommers and John E. Finn, eds., *American Constitutional Law*, vol. 2 (Belmont, CA: West/Wadsworth, 1998), 838.

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Powell's opinion in *Bakke* look all the more peculiar in retrospect. Justice Ruth Bader Ginsburg's majority opinion, while mentioning disparagingly "Virginia's alleged pursuit of diversity," reads: ". . . It is not disputed that diversity among public educational institutions can serve the public good. But Virginia has not shown that VMI was established, or has been maintained, with a view to diversifying, by its categorical exclusion of women, educational opportunities within the state. In cases of this genre, our precedent instructs that 'benign' justifications proffered in defense of categorical exclusions will not be accepted automatically; a tenable justification must describe actual state purposes, not rationalizations for actions in fact differently grounded."[66]

Regardless of whether one agrees or not with Justice Ginsburg's assessment of VMI' s sincerity in invoking the virtues of diversity, as I do, it must be emphasized that in some cases the Court is perfectly willing to dismiss the diversity argument as an excuse made up in order to disguise motives of a different kind. Justice Powell in his *Bakke* opinion did not see fit to question the role supposedly played by the belief in the value of diversity in the design of the Harvard affirmative action plan. This seems remarkable. Considering *Bakke* and *US v. Virginia* together, a case can be made that underrepresented minority members do receive a special treatment of some kind, insofar as relying on the amorphous notion of diversity does not trigger the same degree of suspicion whether or not the argument is cast as a justification for policies from which they tend to benefit. Artfully concealed in Powell's 1978 opinion, the existence of this double standard became unmistakable eighteen years later.

The current gap between the reality of university admissions practices and the flexible kind of affirmative action programs contemplated by Justice Powell, far from being a pernicious product of post-1978 developments, could have been predicted by anyone even slightly aware of the administrative constraints inherent in the admissions process. The distinction that Powell wants to draw between the Harvard affirmative action plan and the Davis one rests on quite implausible assumptions as to how admissions committees actually operate, at least when the number of incoming applications exceeds a certain threshold. Within a theoretically flexible affirmative action program, the average SAT scores of black and Hispanic applicants may lag too far behind those of white and Asian applicants for a suitable degree of diversity to obtain if one is to consider race and ethnicity simply as "one factor among others."[67] Then admissions officers will find it hard to resist the temptation to set in advance, according to the level of "diversity" that they wish to attain, a cut-off score under which blacks and Hispanics may be given a second chance. But no white applicant will be considered further, in spite of possibly extensive extra-academic talents that one might have been able to discover at a later stage in the admissions process.

[66] Ibid., 838–839.

[67] See Christopher Jencks and Meredith Phillips, eds., *The Black-White Test Score Gap* (Washington, DC: Brookings Institution, 1998); Jeffrey Rosen, "Is Affirmative Action Doomed?" *The New Republic*, 17 October 1994.

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Even if that temptation were to be successfully fought—although the Harvard-type affirmative action program can be credited for enabling admissions officers to fine tune the proportion of black and Hispanic students admitted each year according to the average degree of qualification of black and Hispanic applicants—for the white individual whose application is rejected as a consequence of minority membership being considered a plus, the difference between that presumably flexible program and a more rigid kind of affirmative action is hardly significant. Whether all white applicants are flatly excluded from a specific percentage of admission offers because of a minority quota or suffer a handicap in the competition as a corollary of the bonus awarded to blacks and Hispanics, the whites' probability of success will decline. The seriousness of the disadvantage imposed upon them depends on the extent of the handicap, not on the administrative procedures. "The point is not . . . that faculty administering a flexible system may covertly transform it into a quota plan. The point is rather that there is no difference, from the standpoint of individual rights, between the two systems at all."[68] Yet, as pointed out by Justices Brennan, White, Marshall, and Blackmun, the Harvard plan has the great advantage of "not mak[ing] public the extent of the preference and the precise workings of the system."[69]

Regardless of the flexibility of the affirmative action program involved, the heart of the matter is whether the value ascribed to minority membership in admission decisions is defined independently from the anticipated proportion of blacks and Hispanics in the student body.[70] Yet, to judge by Powell's favorite example, the Harvard affirmative action plan he included in his *Bakke* opinion and praised as a model for all universities to follow,[71] the answer to that question is almost certainly negative. Harvard denied having set quotas of any kind,[72] while admitting that the benefits of diversity "[could] not be provided without some attention to numbers."[73] Yet, the fact that the percentage of black undergraduate students remained practically unchanged in the 1973–1978 period (between 7 percent and 8 percent[74]) might have enticed a fair-minded observer to wonder about the truth of that statement. This Powell was careful not to do. While he did mention the possibility that the difference between the two kinds of affirmative action programs that he was trying to distinguish should be entirely superficial, this did not lead him to question the relevance of that distinction: "It has been suggested that an admissions program that considers

[68] Dworkin, *A Matter of Principle*, 311.

[69] *Regents of the University of California v. Bakke*, 379.

[70] See Brian Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge, UK: Polity Press, 2001), 343, n. 3.

[71] See *Regents of the University of California v. Bakke*, 321–324.

[72] Ibid., 316.

[73] Ibid., 323.

[74] See Alan Dershowitz and Laura Hanft, "Affirmative Action and the Harvard College Diversity-Discretion Model: Paradigm or Pretext?" *Cardozo Law Review* 1 (Fall 1979): 383.

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race as only one factor is simply a subtle and more sophisticated—but no less effective—means of according racial preference than the Davis program. A facial intent to discriminate, however, is evident in petitioner's preference program and not denied in this case. No such facial infirmity exists in an admissions program where race or ethnic background is simply one element—to be weighed fairly against other elements—in the selection process."[75] And he adds: ". . . a court would not assume that a university, professing to employ a facially nondiscriminatory admissions policy, would operate it as a cover for the functional equivalent of a quota system. In short, good faith would be presumed in the absence of a showing to the contrary."[76]

The message could hardly be any more transparent: provided universities conceal the rigidity of their affirmative action programs carefully enough, they should be able to count on the Courts' benign passivity. The only real difference between the Harvard plan and the Davis plan is of an "administrative and symbolic" kind.[77] The reason the Harvard plan is held to be constitutionally valid—and not the Davis plan—lies in the lesser visibility of the extent to which the program takes race into account. The constitutionality of affirmative action policies in university admissions is made to depend upon the more or less indirect nature of the formal procedures involved. Powell does eventually touch upon the underlying political judgment in an incidental footnote: "There are also strong policy reasons that correspond to the constitutional distinctions between petitioner's preference program [the Davis plan] and one that assures a measure of competition among all applicants. Petitioner's program will be viewed as inherently unfair by the public generally as well as by applicants for admission in state universities. Fairness in the individual competition for opportunities, especially those provided by the State, is a widely cherished American ethic. . . . As Mr. Justice Frankfurter declared in another connection, "[j]ustice must satisfy the appearance of justice."[78]

The solution eventually reached by Justice Powell must be considered in this light. Despite its own internal fallacies, the diversity argument, by taking the emphasis away from the anti-individualistic and antimeritocratic component of affirmative action, may have helped defuse for a while an issue then rightly considered a deeply divisive one. Grounded as it is on a reasonable, empirically validated assessment of the substantial risks induced by visible forms of preferential treatment for blacks and Hispanics, it should be understood as a pragmatic compromise, a "politically correct solution."[79] It betokens an undoubtedly paradoxical phenomenon: the quasi-transparent incorporation into the Supreme Court case law of strategic considerations geared toward selecting

[75] *Regents of the University of California v. Bakke*, 318.

[76] Ibid., 318–319.

[77] Dworkin, *A Matter of Principle*, 309.

[78] *Regents of the University of California v. Bakke*, 319, n. 53. The quote is from the decision *Offutt v. United States*, 348 US 11 (1954), 14.

[79] See Paul Peterson, "A Politically Correct Solution" in Paul Peterson, ed., *Classifying by Race* (Princeton: Princeton University Press, 1995), 3–21.

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the most appropriate means of overcoming racial divisions. The paradox here lies in the fact that in theory the Court's legitimate sphere of competence is limited to stating and interpreting the public values underlying constitutional arrangements. It does not include identifying and imposing the options most likely to lead to the optimal actualization of those values.[80] Therefore, judges may not yield too openly to the temptation of strategic action. Yet, in the *Bakke* decision, not only is that temptation unusually palpable, but Powell's opinion ends in an almost explicit dissimulation requirement, under which the constitutional validity of affirmative action policies practically depends upon whether the pervasive nature of race consciousness in university admissions remains properly concealed.

As for the most recent developments in the affirmative action controversy, they do seem to corroborate the interpretation suggested above.

On 15 April 1997, the legislature of Texas responded to the drop in the number of black and Hispanic students due to the elimination of affirmative action programs in state universities[81] by voting a bill instructing those universities to admit the top 10 percent of every high school's graduates regardless of grades and test scores.[82] Similar policies have been introduced in other states where affirmative action is no longer part of the public higher education system. California has set the percentage of automatically admitted graduates at 4 percent and Florida at 20 percent. As expected, this new arrangement has helped reduce the ongoing decline in the proportion of blacks and Hispanics among state university students, since there are still a large number of high schools where virtually all pupils belong to either one of these two minority groups.[83] In other words, the persistence of de facto school segregation provides state authorities with a functional substitute for race-based affirmative action.[84] Paradoxically

[80] See John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 235–237; Owen Fiss, "The Supreme Court, 1978 Term. Foreword: The Forms of Justice," *Harvard Law Review* 93 (November 1979): 51–52.

[81] As decided by the Fifth Circuit Court of Appeals in *Hopwood v. State of Texas*, 78 F.3d 932 (5th Circuit 1996).

[82] On the legislative history of the "ten-percent plan," see David Montejano, "Maintaining Diversity at the University of Texas" in Robert Post and Michael Rogin, eds., *Race and Representation: Affirmative Action* (New York: Zone Books, 1998): 362–366.

[83] See Erica Frankenburg, Chungmei Lee, and Gary Orfield, *A Multiracial Society with Segregated Schools: Are We Losing the Dream?* (January 2003), http://www.civilrightsproject.harvard.edu/research/reseg03/AreWeLosingtheDream.pdf (as visited June 14, 2003).

[84] This is certainly not the first time in American history that university officials use seemingly neutral criteria that are actually chosen because of their positive or negative disparate impact on some specific ethnic or racial minority. See Dan Oren, *Joining the Club: A History of Jews at Yale* (New Haven: Yale University Press, 1985), 48–56; for a more general analysis, see Jon Elster, *Local Justice: How Institutions Allocate Goods and Necessary Burdens* (Cambridge, UK: Cambridge University Press, 1992), 116–120. Aside from their nontransferability to graduate and professional schools, whose applicants come from more integrated undergraduate institutions, and from the perverse incentives that they may set up in the minority parents' mind to keep their child in a low-performing, segregated school, these percentage plans can also be criticized on meritocratic grounds. Since they do not make any qualitative distinction between high schools, they usually involve a less stringent qualification stan-

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enough, we now have a situation in which "the explicit use of race in a college admissions formula is forbidden, while the intentional use of a proxy for race publicly adopted so as to reach a similar result is allowed."[85] Hardly anyone is willing to face the predictable consequence of strictly color-blind admissions policies—namely, a sharp decline in the percentage of blacks and Hispanics in some American elite universities and professional schools.[86] Thus, any successful assault on affirmative action in the near future will likely be mitigated by subterfuges of some kind, whose underlying function is only to diminish the visibility of race consciousness in contemporary America.

Postscript

On 23 June 2003, twenty-five years after *Bakke*, the Supreme Court unambiguously endorsed Justice Powell's view that obtaining a diverse student body is a "compelling state interest" that can justify the use of race as a "plus" factor in university admissions in *Grutter v. Bollinger*,[87] a 5-to-4 decision upholding the constitutionality of an affirmative action program at the University of Michigan's law school that sought to enroll a "critical mass" of underrepresented minority students for that purpose, without further specification. At the same time, in a 6-to-3 decision, *Gratz v. Bollinger*,[88] the high court struck down the affirmative action policy of the University of Michigan's undergraduate school, which systematically distributed twenty points of the one hundred needed to guarantee admission to all members of designated racial or ethnic minorities. Whether the specific element triggering that judgment of unconstitutionality was the extent of the bonus granted to minority candidates or simply its quantification is not entirely clear. Still, the automatic assignment of a predetermined, constant, numerical value to ethnoracial minority membership high enough to virtually guarantee admission to every minimally qualified minority student was held to be incompatible with the individualized assessment of each applicant's potential contribution to diversity necessary for an affirmative action plan to pass constitutional muster. On the surface, that is the two decisions'

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dard for admission than do the former, openly-acknowledged affirmative action programs. Thus they may well end up yielding a less well-prepared population of black and Hispanic matriculants. See Lawrence Blum, *I'm not a Racist But . . .: The Moral Quandary of Race* (Ithaca, NY: Cornell University Press, 2002), 91.

[85] Glenn Loury, *The Anatomy of Racial Inequality* (Cambridge, MA: Harvard University Press, 2002), 134.

[86] See William Bowen and Derek Bok, *The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions* (Princeton: Princeton University Press, 1998), 31–39.

[87] *Grutter v. Bollinger*, No.02-241, 2003 WL 21433492 (U.S. June 23, 2003). Justice Sandra O'Connor wrote the majority opinion. She was joined by Justices John Paul Stevens, David Souter, Ruth Bader Ginsburg, and Stephen Breyer.

[88] *Gratz v. Bollinger*, No. 02-516, 2003 WL 21434002 (U.S. June 23, 2003). Chief Justice Rehnquist wrote the majority opinion. He was joined by Justices Sandra O'Connor, Antonin Scalia, Anthony Kennedy, Clarence Thomas, and Stephen Breyer.

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main contribution to the Supreme Court's case law on affirmative action.[89] Yet, *Grutter* and *Gratz* also reflect the acknowledgment and denunciation by a minority of Supreme Court Justices of the "deliberate obfuscation" involved in the majority's position.[90] Thus, according to Justice Ginsburg, "one can reasonably anticipate . . . that colleges and universities will seek to maintain their minority enrollment . . . whether or not they can do so in full candor through adoption of affirmative action plans of the kind here at issue [the undergraduate one]. Without recourse to such plans, institutions of higher education may resort to camouflage. . . . If honesty is the best policy, surely Michigan's accurately described, fully disclosed College affirmative action program is preferable to achieving similar numbers through winks, nods and disguises."[91] Justice Souter holds a similar view and refuses to "treat the candor of [that] admissions plan as an Achilles' heel." In contrast to the percentage plans, which "get their racially diverse results without saying directly what they are doing or why they are doing it," he praises "the college's forthrightness in saying just what plus factor it gives for membership in an underrepresented minority." "Equal protection cannot become an exercise in which the winners are the ones who hide the ball," he argues.[92] Yet, as suggested in this article and as confirmed by the very fact that Souter and Ginsburg's are dissenting opinions, to a certain extent it has.*

[89] See also A Joint Statement of Constitutional Law Scholars, *Reaffirming Diversity: A Legal Analysis of the University of Michigan Affirmative Action Cases*, http://www.civilrightsproject.harvard.edu/policy/legal_docs/Diversity_%20Reaffirmed.pdf (as visited 14 July 2003).

[90] *Gratz v. Bollinger* (dissenting opinion of Justice Souter).

[91] *Gratz v. Bollinger* (dissenting opinion of Justice Ginsburg).

[92] *Gratz v. Bollinger* (dissenting opinion of Justice Souter).

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Pluralism and Multiculturalism in France: Post-Jacobin Transformations

WILLIAM SAFRAN

"Pluralism" has for decades had a fairly straightforward meaning for American political scientists. It has denoted a political system in which polity and society are clearly demarcated; in which society is relatively autonomous vis-à-vis the polity and is itself subdivided into social, economic, and professional segments, all more or less independent of each other, competing with each other in the marketplace and attempting to influence public policy. The polity was relatively weak, and the public authorities were little more than receptacles and reflecting mirrors of the input of autonomous socioeconomic sectors. The weakness of the state in turn derived from the existence of both vertical and horizontal pluralism within it: vertical pluralism as evinced by the division between federal and subfederal jurisdictions and horizontal pluralism as manifested by the separation of political powers. This situation, summed up in the concept of "polyarchy,"[1] was viewed as the U.S. ideal type because it connoted an equilibrium between social and political forces that maximized freedom and prevented the abuse of power. A countermodel was that of France, a country that according to long tradition was so highly centralized that neither horizontal nor vertical power distribution could exist meaningfully.

In the United States, the concept of institutional pluralism had little to do with ethnic or racial aspects of society. "Ethnoplural society" tended to be ignored by political scientists, if not necessarily by politicians. The heterogeneous character of the American people and the cultural preoccupations of both society at large and of minorities were considered to be essentially private matters

[1] Robert A. Dahl, *Polyarchy* (New Haven: Yale University Press, 1971); and Dahl, *Dilemmas of Pluralist Democracy* (New Haven: Yale University Press, 1982), 4–7.

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that did not impinge upon political decision making. Moreover, ethnic cultural diversity was destined to become irrelevant as the American assimilation machinery melted minorities into a coherent political community. Academic interest in ethnopluralism was generally confined to anthropologists, who focused on non-Western, often "primordial," societies. The term "plural society," first coined by J. S. Furnivall, was associated with imperialism: it was a society purposely fragmented by the colonial overlord into segments that do not combine, each living its separate life and meeting only in a limited way outside the marketplace.[2]

For these reasons, the two types of pluralism were often kept analytically separate, as if they were incompatible.[3] Today, however, the concept of pluralism is increasingly appropriated for describing multiethnicity—with its original socioeconomic and political institutional connotations cast aside.[4] Therefore, a discussion of the relationship between institutional pluralism and ethnoplural society involves a jumping across the conceptual barriers of two disciplines. Such a jump, however, has become necessary as the term "pluralism" has come to refer to the heterogeneous nature of society and to the structural differentiations implicit in it.

Such semantic confusion was not a serious problem in France. Jacobin doctrine—so named after the Club des Jacobins, whose members played a crucial role in the Revolution of 1789—emphasized a highly centralized state and rejected both institutional and ethnocultural pluralism. The former implied the existence of political, economic, or geographic mediating structures, weakened the sovereign, and interfered with democracy; and the latter implied the preservation of reactionary particularisms that stood in the way of the construction of a rational society with universalist application.

This categorical position was by no means essential to the thinking of all revolutionaries. At the beginning of the Revolution of 1789, there was "a profusion of fraternal orders, clubs, district assemblies and political societies," including that of the Jacobins themselves.[5] The right to assemble peacefully and freely to form associations was recognized by a law enacted in 1790 and reaffirmed by the Constitution of 1791. The Le Chapelier law banning all employers' and workers' associations, which was enacted three months earlier, made the constitutional reaffirmation meaningless. The official reason for the ban was to prevent any inhibition of trade and commerce. A major "real" reason was to fight the Church, which became clear in 1792, when the formation of religious congregations was prohibited.

[2] John S. Furnivall, *Netherlands India: A Study of Plural Economy* (Cambridge, UK: Cambridge University Press, 1939); and Furnivall, *Colonial Policy and Practice: A Comparative Study of Burma and India* (Cambridge, UK: Cambridge University Press, 1948).

[3] See Dominique Pelassy, *Qui gouverne en Europe?* (Paris: Fayard, 1992).

[4] Jacqueline C. Simpson, "Pluralism: The Evolution of a Nebulous Concept," *American Behavioral Scientist* 38 (January 1995): 459–477.

[5] Bertrand Bissuel, "La Loi du 1er juillet 1901 sur les associations couronne un long combat politique et juridique," *Le Monde* (Supplément), 21 June 2001.

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In any case, the more dogmatic interpretation of Jacobinism became the norm, which was to determine the relationship between the individual and the state and define citizenship itself. A prominent French scholar of citizenship and nationality has remarked that the British tradition of liberal pluralism, which accords places to social orders, classes, and particularistic communities, has been opposed by the unitary French conception of citizenship, which was "brutally imposed."[6] According to British tradition, one is a citizen by virtue of belonging to a political community, a status that is not incompatible with membership in a particular ethnonational community. According to the French tradition, one is a citizen to the extent that one has transcended the subcommunity. According to the British and American notion, liberty can be assured best if there are checks against the exercise of political power. Such checks are in part furnished by various forms of pluralism: separation of powers, federalism, and a proper balance between the state and civil society. According to Jacobin ideology, which has informed the thinking of all French republicans, the state represents the people's will, and the existence of plural institutions and social forces only fragments that will, which is the will of all citizens viewed as individuals rather than as products of particularistic traditions. It is no accident that in France both the Gaullist Right and the Marxist Left generally accepted this normative revolutionary thesis and rejected all kinds of pluralism.[7] The Gaullists did so because of their etatist nationalism, whereas the Marxists did so because socioeconomic pluralism was a sham in a capitalist state and ethnic pluralism reflected a "false consciousness" and interfered in the expression of class consciousness. The acceptance of the Jacobin thesis was reflected in the rejection of the American idea of federalism and the separation of powers; the insistence, however perfunctory, on the supremacy of the legislature; and the unease (particularly among Gaullists) about party and interest-group politics.

American-French Similarities and Differences

To be sure, France has shared certain norms with the United States. These have included the belief in a rational constitution, freely entered into by consenting citizens; the notion that a political community should be based on the voluntary adherence to political values; a commitment to individual rights; the preference for a secular culture; and the belief that the creation of a homogeneous society was a good thing. Both the United States and France have abjured group rights, at least in principle; both have defined the state in functionalist, ideological terms.

Such commonalities have been celebrated by well-meaning intellectuals, such as Samuel Huntington and S. M. Lipset in the United States and Domi-

[6] Dominique Schnapper, *La Communauté des citoyens* (Paris: Gallimard, 1994), 90–91.

[7] See François Furet, Jacques Julliard, and Pierre Rosanvallon, *La République du centre* (Paris: Calmann-Lévy, 1988), 103.

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nique Schnapper and Jean Leca in France.[8] But these writers present ideal-typical visions rather than a complex reality. The idea of a nation built on rational, ideological, voluntarist, and ethnically neutral principles contained a large dose of idealism in France, as it did in the United States. In the United States, the conviction that American culture was "neutral" and ahistorical[9] was belied by the survival of ascriptive criteria based on white Anglo-Saxon Protestant (WASP) origins, the institution of black slavery, immigration policies that discriminated against selected ethnic groups and, during World War II, the deportation of Japanese-Americans.[10]

In both countries, there have been instances of selective immigration policies; difficulties encountered by minority religions obtaining rights of the city; and examples of public policies that do not provide for a level playing field for all communities. Finally, both countries have on occasion failed to extend fraternal solidarity and even legal protection to minorities: African Americans and Japanese Americans in the United States and Jews in France under the Vichy state. In both countries, there are "organicist" survivals and glosses: in the United States, the tendency to define the American character in WASP terms and in France to define *francité* (Frenchness) in terms of the background and values of Catholic "*franco-français de vieille souche*" (authentically French of old stock). Liberals in each society argue that such definitions are purely a matter of history and have no practical consequences, that they no longer connote political or socioeconomic privilege, and that they are being negated by the fact that their respective cultures are continually being modified by the infusion of other ethnocultural elements. What is important is that both countries accept *jus soli* as a basis for citizenship; both societies are assimilationist; assimilation takes place not in a forcible fashion but by cooptation. As a result, in the United States at the end of the nineteenth century, American political culture became ethnoculturally anonymous; it was no longer exclusively a British-inspired affair, and non-WASPs began to be comfortable with it. In France, such a process occurred much later and met with greater resistance.

There have been important differences between the two countries with respect to political-institutional development. In France, official ideology has been informed by the belief that freedom could be best protected *by* a state that is congruent with popular sovereignty and that is not divided and falsified

[8] Samuel Huntington, *American Democracy: The Promise of Disharmony* (Cambridge, MA: Belknap Press, 1981); Seymour Martin Lipset, *The First New Nation* (New York: Basic Books, 1963); Dominique Schnapper, *La France de l'Intégration* (Paris: Gallimard, 1991); Jean Leca, "Individualisme et citoyenneté" in Pierre Birnbaum and Jean Leca, eds., *Sur l'individualisme* (Paris: Presses de la Fondation Nationale des Sciences Politiques, 1986), 159–203; "Entretien avec Jean Leca" in Catherine Wihtol de Wenden, ed., *La Citoyenneté* (Paris: Edilig-Fondation Diderot, 1988), 323-325.

[9] See Huntington, *American Democracy.*

[10] On the "schizophrenic" approach to American collective identity, see Rogers M. Smith, "The 'American Creed' and American Identity: The Limits of Liberal Citizenship in the United States," *Western Political Quarterly* 41 (June 1988): 225–251.

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by intermediaries—local communities, provincial governments, religious bodies, interest groups, or any other particularistic social subunits. In the United States, on the contrary, the Founders were steeped in the conviction that freedom had to be protected *against* the ambitions of a state—on the one hand by an autonomous civil society and on the other by a fragmentation of state jurisdictions. In the United States, civil society has dominated over the state; in France, the opposite has been the case.

These ideological differences were embodied in socioeconomic and cultural politics. In France, the state was considered the primary agent of economic development and of the protection and promotion of society's cultural patrimony; in the United States, both of these processes were to be left to the economic and social forces of civil society. Such differences were in turn reflected in these countries' respective approaches to their minority communities. In the United States, the "melting-pot" was put over a slow fire. The process of assimilating ethnocultural communities was to be a gradual one, left as much as possible to the market. In France, it was to be systematically pursued as a matter of state policy. As U.S. politicians and political scientists discovered the continuing political reality of ethnoracial minorities, the politicians tried to adjust their practical policies accordingly, and the political scientists tried to make a place for them in political analysis. In France, the existence of such minorities continued to be denied, at least insofar as they might impinge upon the political process.

French Hostility to Cultural Pluralism

It is difficult to imagine ethnoculturally pluralistic policies officially embraced in France. Although the constantly repeated statement that "*la France est un vieux pays*" (France is an old country) seems to imply that the country has for many centuries been a distinct entity, there is the memory of the country's feudal roots, of invasions or threats of invasion by neighbors, and of the fact that until the French Revolution there were competing regional cultures and languages that produced fissiparous tendencies in society. Until at least the middle of the nineteenth century, France was a predominantly agricultural civilization, based in villages whose inhabitants preserved long local memories and strong links and who were uncomfortable with outsiders. To be French meant to be Catholic, to have rural roots, and to speak a regional dialect. Absolute rule under monarchs and subsequently centralized government under republics were designed to counter such tendencies and shape policies that would lead to cultural unity. In the United States, culture and language have been left to civil society, but in France such matters have been part of the state's policy domain. By the end of the century, France had created a coherent sense of national identity by means of a centralized school system.

In France, however, matters are not quite so simple, for the perception of national identity continues to be defined, particularly by elements of the political Right, in "organic" and historical references—for example, to "*nos ancêtres*

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les Gaulois" (our ancestors, the Gauls)—that are strongly marked by Catholicism. Most public holidays are based on the Catholic heritage. Protestants, Jews, and Muslims have had difficulty being accepted as bona fide members of the national community. Even well-meaning Jacobins tend to refer to "*Français d'origine juive*" but not to French people of Catholic origin. It's as if one must leave one's Judaism behind in order to become French, but not necessarily one's Catholicism. During the various interludes between republics, monarchists or fascists were not read out of the French national community despite their ideology. Conversely, during the Vichy regime, Jews, after having fought for France on the battlefront as individual French citizens, were deported to concentration camps as members of the Jewish "race." French history books stress such "nation-building" events as the Battle of Poitiers and such heroes as Saint-Louis and Joan of Arc, regardless of the sensitivities of Protestants, Jews, and Muslims.

Furthermore, the government harbored vestigial sensitivities regarding separatism on the part of "peripheral" ethnic regions. These were overreactions to only partly successful attempts by Nazi Germany to cultivate autonomist attitudes, as in the case of the Alsatians, Flemings, and Bretons. There have been no comparable threats in the United States. The Civil War was not an interethnic war, because it involved WASP majorities on both sides.

In any case, from the middle of the Third Republic in the early twentieth century to the beginning of the Fifth Republic in 1958, the French reiterated their Jacobin ideology, under which state and nation were congruent. The state dominated civil society, and citizenship and nationality were fused. The state, based on a voluntary adherence to a social contract or the commitment to republican values, determined citizenship. This view was expressed by Ernest Renan in his classic *Qu'est-ce qu'une nation?* where in the 1880s he defined a nation as "a common consent, a desire to live together . . . common glories, [and] a common wish to do things together."[11] It is expressed more recently in the writings of Dominique Schnapper, who has insisted that a modern nation is purely a construct of the state—preferably a democratic one to which citizens belong as individuals and are accorded rights as individuals regardless of their ethnic or religious "origins." Under that definition, religious, ethnic, and other culturally particularistic matters are consigned to the private sphere.[12] However, since "doing things together" required a common language and a common culture, the Parisian nation-builders naturally chose their own language and culture as superordinate vehicles, with the result that other languages and cultures were denigrated by being demoted to the status of dialects and folklores. The successful construction of such vehicles inevitably led to the official dogma that there were no longer any minorities in France.

[11] Ernest Renan, *Oeuvres complètes* (Paris: Calmann-Lévy, 1947), vol. 1, 903–904.
[12] Schnapper, *La Communauté des citoyens*, 27–44.

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France and Ethnic Minorities

Even while the principles of Jacobinism were accepted as ideal, they were belied in practice. The ideal of a culturally uniform society fused with a centralized state had been based on the image of a French nation open to all regardless of their ethnic backgrounds and informed by ideals—liberty, equality, and fraternity—and a language that had universal appeal and that provided the basis for the French *mission civilisatrice* (civilizing mission). But that image was undermined by a number of developments: the French departure during World War II from the republican model; the humiliation of France by the Germans; French collaboration in the deportation of Jews; the colonial record of France; the dethronement of French as a tool of international communication; the recognition that the French political system no longer held a monopoly on representative democracy and individual liberty; the massive immigration of non-European immigrants who, because of their cultural, religious, and linguistic heterogeneity, could not be as easily assimilated as earlier French immigrants; and finally, the growth of European supranationality, which was itself a challenge to traditional conceptions of national sovereignty and which was followed by the revival of infranational sentiments and claims.[13]

The existence of minorities is now openly admitted, albeit regretfully, by many Jacobins. This acknowledgment has had important consequences for policies regarding the languages and cultures of France's minorities, especially in border regions. The uniform principle of *laïcité* (secularity), an important element of Jacobinism, had already been undermined earlier. Despite the separation of church and state in 1905, a special regime of public support of several religions (including the subsidization of clergy and religious education in public schools) has been maintained for Alsace and part of Lorraine since 1918; and despite the notion of a one and indivisible France, special statutes existed for selected overseas territories—for example, French Guyana, which maintained Catholicism as the only "established" church. Another policy that catered to ascriptive categoric groups was the subsidization of parochial schools.[14] Yet another measure was a law passed in 1972 relating to group libel; this law is significant because in criminalizing the promotion of ethnoreligious group hatred, the government implicitly acknowledged the rights of categoric groups.[15]

[13] William Safran, "State, Nation, National Identity, and Citizenship: France as a Test Case," *International Political Science Review* 12 (July 1991): 223–224.

[14] Specifically, the Barangé and Debré laws of 1951 and 1959 respectively, which provided for state "contracts" with private schools.

[15] The law was an extension of a decree (the décret Marchandeau) promulgated in 1939 (itself elaborating a law of 1936), which made it an offense to "defame a group of persons belonging by their origin to a specific race or religion, if the aim [of such defamation] is to incite hatred among citizens or residents." See "Les Violences racistes et la loi," *Le Monde, Dossiers et Documents*, no. 182 (November 1990): 2. See also Jean-Yves Faberon and Guy Agniel, eds., *La Souveraineté partagée en Nouvelle Calédonie et en droit comparé* (Paris: Documentation Française, 2000).

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After World War II, the fears of the French political and intellectual elite about separatist tendencies abated. One of the consequences was the passage of the Deixonne law (1951), which provided for the teaching of the Basque, Breton, Catalan, and Occitan languages in the lycées on an elective basis. Unfortunately, adequate funding was not provided, and implementing regulations were not issued until 1970.[16] Still, it was a first step to be followed by the introduction of Breton language classes in selected primary schools and of the expansion of programs broadcast in Alsatian. During the Third Republic, children caught speaking Breton on school grounds were subjected to corporal punishment, and until the 1960s, government authorities refused to register newborn children who were given Breton first names. From the 1970s on, local authorities became more flexible as a result of court actions, such as decisions by the Cour de Cassation in 1981 and 1984 permitting parents to choose foreign names or names appropriate to regional (Breton or Basque) traditions, although local officials still maintained the discretion to prevent parents from giving their children names that were "ridiculous, complex, or likely to interfere with their integration into the national community."[17]

More importantly, the reassertion of regional cultural identities was associated with growing claims for the relegitimation, if not the actual use, of Corsican, Breton, Basque, Catalan, and other minority languages.[18] The government responded to these claims by a series of measures during the heyday of Socialist power between 1981 and 1986. These measures aimed at the promotion of ethnocultural pluralism by protecting and developing the cultures and languages of regional minorities (such as the Bretons, Basques, and Catalans) and "nonterritorial" minorities (such as the Jews and Maghrebis). Specifically, these measures, many of them based on the proposals of a blue-ribbon committee appointed to suggest ways of affirming the "right to be different,"[19] included the subsidization of ethnic-language publications, ethnic museums, films, and music; the teaching of ethnic-minority languages at various levels of the educational system and the training of teachers for this purpose; the maintenance of "multicultural" community centers and research programs; and the promotion of a variety of cultural activities. These included, inter alia, the printing of Provençal poetry, the production of Breton theater, and the staging of ethnic folk festivals, including an annual Celtic festival complete with costumes, folk

[16] William Safran, "The French State and Ethnic Minority Cultures: Policy Dimensions and Problems" in Joseph R. Rudolph and Robert J. Thompson, eds., *Ethnoterritorial Politics, Policy, and the Western World* (Boulder, CO: Lynne Rienner, 1989), 121.

[17] Alain Giraudo, "Les Parents pourraient choisir plus librement les prénoms de leurs enfants," *Le Monde*, 22–23 December 1991.

[18] See Dennis Ager, "Language and Power" in Gino G. Raymond, ed., *Structures of Power in Modern France* (New York: St. Martin's Press, 2000), 160–161. It is questionable, however, whether Ager is correct in equating the Corsicans' autonomist assertions with a "rejection of the French language" by that island or by the regions in general.

[19] Henri Giordan, *Démocratie culturelle et droit à la différence: Rapport au ministre de la culture* (Paris: Documentation Française, 1982).

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dances, and bagpipes.[20] Some of these events reflected a "kitsch" approach to culture, while others had a respectable content worthy of being regarded as part of France's diverse national cultural patrimony. The support of these activities engaged, not only the national government, but also provincial authorities, which had gained financial resources as a consequence of decentralization.

After the electoral victory of the Gaullist-Giscardist coalition in the legislative elections of 1986, the multiculturalist ardor cooled; yet, a pattern had been put in place that could not be undone, and as a result, regional minority languages continue to be taught (with government subsidies),[21] and more teachers are being trained to teach them.

In the eyes of many, such accommodation has gone too far and threatens the dominant position of the national culture and, above all, of the French language. The challenges to the French language have been met by three major government responses: a constitutional amendment in 1992 to the effect that "the language of the republic is French"; several laws aimed at reaffirming the position of the French language; and the continued refusal to ratify European charters relating to the protection of minority languages. Among the most important pieces of legislation were the Bas-Lauriol Law (1975), which mandated the use of French in public documents and in commerce, and the Toubon Law (1994), which made the use of French compulsory in all public agencies. Proponents argued that such measures were necessary in order to protect linguistic pluralism in Europe in the face of the near-monopolistic use of English in international communication and the relentless inroads of English words into the French language, while preserving the monopolistic position of that language within the Hexagon against challenges from the languages of the ethnic communities. Originally, the Toubon bill was to apply to all communication; but the Constitutional Council's concern with free speech led it to decide that the bill, which banned the public use of foreign words, could be applied to official communications but not to language used by private individuals or firms in the marketplace, because such application would violate the freedom of speech clauses of the Declaration of Rights of 1789.[22] In any case, both the partial privatization of broadcasting and the decentralization policies, most of them inaugurated in the early 1980s, were bound to have an ethnopluralistic component, because they gave cities with heavy concentrations of ethnic minorities freer

[20] Safran, "The French State and Ethnic Minority Cultures," 115–157.

[21] In 2000–2001, more than 150,000 elementary school pupils were enrolled in regional-language classes. The breakdown for the total of 152,557 was as follows (rounded in thousands): Occitan 71.9; Corsican 27.9; Breton 21.0; Basque 9.0; Alsatian 7.5. "Les Langues régionales à l'école," *Libération*, 16 May 2001.

[22] William Safran, "Politics and Language in Contemporary France: Facing Supranational and Infranational Challenges," *International Journal of the Sociology of Language* 137 (1999): 39–66; and Hervé Guillorel, "La France et la Charte européenne des langues régionales ou minoritaires" (paper presented at the 18th world congress of the International Political Science Association, Québec, 1–5 August 2000).

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rein to make decisions appropriate to the situation. For example, the law permitting private radio stations on local levels was quickly used by ethnic communities to set up stations broadcasting in minority languages.

The Evolution of Political-Institutional Pluralism

The challenges to Jacobin thinking extended to the discussion of the very nature of the French state. Since the early 1980s and to some extent since 1968, there have been growing complaints about the state's being too powerful; and there have been calls for the revaluation and resuscitation of civil society. Such calls were particularly evident in the slogans of Pierre Mauroy, Michel Rocard, and other Socialist leaders.[23] This is the obverse of the situation in the United States, where there has been a growing popularity among political scientists of the state-centered paradigm—the notion that the state makes decisions autonomously and is not merely a registration agent of intersectoral pressures. U.S. political scientists, however, have not agreed on what is meant by "the state": for some, it has been the public interest; for others, the government; for still others, the bureaucracy; and for others again, efficient decision making. Moreover, the return of the state has largely been wishful thinking; there has been little empirical proof that the state has become more powerful vis-à-vis civil society. On the contrary, since the Newt Gingrich revolution in Congress, there has been a speeding up of the process of dismantling the state, and this process appears to be continuing in selective fashion under the presidency of George W. Bush.

In France, this situation has been paralleled by confusions about the precise role and meaning of "civil society." To some French public figures and political scientists, it has referred in classic pluralist terms to "*la vie associative*" (the reality of voluntary associations) as reflected in a significant role of interest groups in the political process. To others, it has referred to people not occupying government or political-party positions. Thus, when Rocard argued that civil society should be increasingly resorted to both for recruits to political office and for policy suggestions, he had in mind segments other than the political class.

From the mid-1980s on, a growing number of decision makers rediscovered the market and became more positively inclined toward neoliberalism, a change in outlook that was expressed by the slogan "*désétatisation, dérégulation, défiscalisation*" (privatization, deregulation, tax reductions). The practical policy expectations associated with the slogan were overly optimistic. Nevertheless, the steadily reduced effectiveness of *concertation* (the harmonization of public and

[23] *La Décentralisation*, Cahiers français 204 (Paris: Documentation Française, January–February 1982), 50–52.

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private interests) and central planning have raised questions about the relevance of the corporatist model as depicted by Philippe Schmitter,[24] whose applicability to France has often been exaggerated.[25]

The rediscovery of forces outside or alongside the state does not mean that the state has been given up. Yet, while France continues to adhere to the official Jacobin model of the preeminence of the state, a number of changes have occurred that have virtually destroyed the decision-making monopoly of the central government. These changes are clearly manifest in the multiple patterns of power sharing. The most institutionalized and most frequently analyzed example of power sharing is, of course, the cohabitation of a president belonging to one political party with a National Assembly dominated by another party, and a prime minister selected by the latter. Such a situation has so far been obtained three times, the most recent instance dating to May 1997. At that time, President Jacques Chirac, a Gaullist, after appointing Lionel Jospin, a Socialist, expressed the hope that cohabitation would take place in an atmosphere of "dignity, mutual respect and a constant concern for the interests of France," to which Jospin replied that he would commit himself "to work in the context of respect of the high constitutional prerogatives of the president of the republic."[26]

The cohabitation of the chief of state and the head of government is parallel to other patterns of cohabitation involving the executive, the political parties, and the interest groups. On a horizontal institutional level, these patterns include not only the traditional rivalries between ministries representing diverse clienteles—for example, between the Ministry of Justice and the Ministry of Interior; between the Ministry of Employment and the Ministry of Finance; and between the Ministry of Agriculture and the Ministry of European Affairs—but also the conflicts between various members of the government coalition, who sometimes publicly take issue with the policies of the prime minister.[27]

Among the political parties there are numerous conflicts and rivalries: between the dominant Socialist party and other left-wing parties; within the Socialist party, between Mitterrand's "old elephants" and the Jospin's "young Turks"; within the Communist party, between the "domesticated" members (Jean-Claude Gayssot), who have accommodated selectively to capitalism, and those dogmatically opposed to it (Maxime Gremetz); within the "republican"

[24] See Philippe C. Schmitter, "Corporatism and Policy-Making in Contemporary Western Europe" and other essays in *Comparative Political Studies* 10 (April 1977).

[25] William Safran, *The French Polity*, 6th ed. (New York: Longman, 2003), 159–171; see also Dominique Colas, ed., *L'État et les corporatismes* (Paris: Presses Universitaires de France, 1988); and Yves Mény, "Interest-Group Politics in the Fifth Republic" in Paul Godt, ed., *Policy-Making in France from deGaulle to Mitterrand* (London: Pinter, 1989), 91–101.

[26] Safran, *The French Polity*, 6th ed., 188.

[27] The most recent conflict (in August 2001) concerned the passage of heavy trucks through an Alpine tunnel, which was favored by the minister of transport and opposed by the minister for the environment.

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Right, between the mainstream Gaullists and the *Union pour la Démocratie française*, the "Giscardist" center-right alignment (or what is left of it); and within the extreme Right, between the *Front National* led by Jean-Marie Le Pen and the *Mouvement National Républicain* led by Bruno Mégret. There are three environmentalist (Green) parties, and in the presidential elections of 2002, three Trotskyists were among the candidates.

This organizational pluralism, while continuing to reflect the expressive behavior of members of the electorate in the sense of belonging in a right or left camp is increasingly eclipsed by a pluralism of positions on policy issues that overlap traditional political party divisions—the pro-Europeanists and anti-Europeanists, the centralizers and decentralizers, the supporters and opponents of globalization, and the pro- and anti-environmentalists.

There are several trade-union confederations, which continue as before to relate to each other and to political parties in an ambivalent fashion, sometimes collaborating, sometimes competing and conflicting. Concurrently, a number of developments have occurred: the growth of interest groups that are autonomous vis-à-vis political parties; an increasing delinking of established interest groups from political parties; and the rise of spontaneous economic groups—for example, rogue farmers—which engage in electoral politics and/or exert pressure directly upon government ministries.[28]

Another example of horizontal power sharing is the Bank of France, which since 1994 has had considerable autonomy vis-à-vis the national executive and legislature in matters of interest rates and other aspects of monetary policy. This autonomy in turn is in the process of losing to the European Union and its supranational bank in Frankfurt. Among examples of vertical power sharing is the ever greater energy with which regional and local authorities assert themselves against Paris, as in the case of regional planning and the signing of contracts with partners outside France.

Still another arena of vertical power sharing is the police, which used to be among the major instruments of central government supervision. Since 1984, the competence of the local police forces that have been added to the national police has been progressively enlarged, so that they have become rivals in selected instances, such as identity controls and the pursuit of suspected criminals.[29] Furthermore, in the mid-1990s the Ministry of the Interior created a neighborhood police (*police de proximité*), which complements the existing national police establishment.

There are instances of pluralism that represent a mixture of horizontal and vertical challenges to centralized national authority. These include civil society winning battles against the state, such as the trade unions causing the government to adopt changes in its transport policy; and the street—strikers and dem-

[28] See Robert Elgie, *The Changing French Political System* (London: Frank Cass, 2000), 5.

[29] Dominique Lorrain, "Administrer, gouverner, réguler," *Les Annales de la recherche urbaine* 80–81 (December 1998); and Marie Vogel, "La Loi sur les polices municipales," *Regards sur l'Actualité*, July–August 1999, 43–52.

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onstrators—forcing the government to abandon proposed legislation in education and privatization.

Pluralism is further illustrated by the competition between private and public electronic media; the growth of investigative journalism, as seen in the increasingly daring exposés of political corruption, such as those in *Le Canard Enchâiné* and other journals; and the coexistence of public and private schools, with about 20 percent of students in primary and secondary schools attending the latter.

Two major ramparts of national centralism have yielded to pluralist pressures. One is the Académie Française, whose attempts to impose its ideas of the proper use of the French language have foundered in the face of linguistic preferences of the public at large; and the other is the École Nationale d'Administration (ENA), once the major elite-training institution, whose image has suffered in competition with the growing prestige of private business schools, in part because ENA has not sufficiently adapted itself to the changing elite structure and to economic innovation and in part because the desire to serve the state increasingly competes with the quest for a place in the world of business as a career goal.[30]

There are other institutional and pattern changes that have tended to weaken the decision-making power of the national executive and expand pluralist patterns. These include:

- the decentralization measures, which began in 1981–1983 and are still continuing, as a result of which regions, departments, and communes have gained greater revenue-gathering and decision-making powers and local and provincial associations have come to participate more directly in the policy process;
- the enlargement of the role of the social partners—labor unions and business—in collective bargaining at the plant level (the Auroux laws of 1981–1982);
- the growth of the number of institutions of functional representation in addition to the Economic and Social Council, where the role of interest groups in decision making has been institutionalized;
- the upgrading of Parliament, already begun in the mid-1970s, speeded up under the impetus of various Gaullist and Socialist Assembly speakers and reaffirmed by a constitutional amendment of July 1995, which extended the regular sessions of Parliament from five-and-a-half to nine months;
- the institution of the mediator (a French sort of ombudsman) as a supplement to the administrative courts;
- the continuing improvement by legislative means of due-process protections (including habeas corpus), begun during the first several years of the Mitterrand presidency; and

[30] Suzanne Daley, "The Pedestal Is Cracking Under an Elite in France," *New York Times*, 9 July 2000, 3.

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- the increasingly independent behavior of the state's attorneys' offices vis-à-vis the national executive as well as local authorities, as evidenced in the growing number of indictments of prominent politicians on both sides of the Left-Right divide. This development has gone hand in hand with the readiness of criminal courts to convict national and local politicians, both in the executive and in Parliament, thereby asserting the rule of law (*l'État de droit*) against the traditional privileges of servants of the state who often invoked the "national interest" (*la raison d'État*).[31]

One of the most interesting institutional counter-powers set up in the Fifth Republic has been the Constitutional Council (CC), which because of its role in determining the constitutionality of pending bills has become a sort of co-legislator, sometimes constraining the power of Parliament but more often that of the executive. The CC has played an important role in the expansion of civil liberties, especially in the domain of speech and press. Although technically a bill of rights is part of the Fifth Republic Constitution—in the sense that adherence to the Declaration of the Rights of Man and Citizen of 1789 is reaffirmed in the preamble—it had to be put into effect by specific decisions of the council.

In addition to jurisdictional rivalries, there are growing instances of interpretive rivalries: the Conseil d'État (the highest administrative court), the Cour de Cassation (the highest court of civil and criminal appeals), the magistrature, and the Ministry of Justice all participated in the game of determining what constitutional rules apply to the question of whether Jacques Chirac, as a sitting president, could be held to account for infractions committed before and during his incumbency.[32]

Not all the decisions of the CC, however, have served to legitimize ethnocultural pluralism. The council, while expanding the area of individual liberties, maintained the principle of "France one and indivisible" when it decided in 1990 to nullify part of a Corsican autonomy bill that referred to "the Corsican people, a component of the French people." Nevertheless, Corsica is regarded as sufficiently different from other French provinces to warrant special treatment by the national government, so that irrespective of the continued assertions of Parisian *tutelle*, Corsican autonomy is likely to be expanded further.[33] Recent Ministers of the Interior Jean-Pierre Chevènement and Charles Pasqua—the former a leftist and the latter a conservative—have both criticized this development as destructive of the unity of France. Former Prime Minister Michel Rocard, however, has supported it, arguing that Corsica is different

[31] Elgie, Introduction, 7; and Vincent Wright, "The Fifth Republic: From the *Droit de l'Etat* to the *Etat de droit*?" in Elgie, *The Changing French Political System*, 92–119.

[32] See Guy Carcassonne, "La Nouvelle Vie du Conseil constitutionnel," *Le Point*, 13 July 2001, 34.

[33] A government bill to expand Corsica's *pouvoir règlementaire* (regulatory powers) was passed in 2000; however, the Constitutional Council nullified parts of it, including the provision to put the Corsican language on par with French as a medium of instruction in public elementary schools.

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from the rest of France and that this fact should be officially admitted. In his words, "It is better to have an acknowledged difference than an oppressive uniformity."[34]

The CC has not yet made a definitive decision regarding Corsican autonomy. But even if it were to do so, it would not be the final word about the reality of pluralistic society. In the opinion of one scholar, the opposition to pluralism has expressed itself above all in jurisprudence: in order to protect the equality of all citizens, the law must be uniform; since the state is the source of law, lack of uniformity would imply that the state had become powerless. Even so, there have been "tangible legislative translations" of the recognition of pluralism, as in the cases of Alsace-Lorraine, the Loi Deixonne, the legitimation of associations, and so on. This ambiguity goes back to the very beginning of the revolution. The Chapelier Law of 1791 was rescinded in 1901; but it had already been undermined by a law passed in 1884, which allowed the establishment of labor unions and mutual societies. The *pays réel* (the real country) is even more flexible than the *pays légal* (the legal country); in practical terms, there has always been considerable pluralism, and it is constantly growing.[35] At the same time, the public powers maintain an aura of etatism, and they do so in several ways: by requiring official registration of associations and according preferential legitimation of a selected number of them (that is, by according them representation in the Economic and Social Council and treating others as privileged interlocutors; by regarding them not as "lobbyists" but as "social partners" in deliberations on public policy; and by providing financial subsidies to them.[36]

For all these reasons, the list of polyarchic institutional features must be viewed with a modicum of caution. In the first place, unlike the situation in the United States, few institutional pluralists or neoliberals in France would accept the proposition that a dismantling of the welfare state and a diminution of the essential role of the public authorities in securing and administering it are logical consequences of decentralization and privatization. Second, it was not assumed that the changes cited above would necessarily have a direct effect on the development of ethnoplural society, nor that they should have such effect. Many decentralizers were influenced by two ideas: a belief in the need to create a counterpower to a centralized state that is often remote and inefficient and

[34] Michel Rocard, "Pour en finir avec le jacobinisme," *Le Monde*, 31 August 2000. There are even those who question the notion that a rigid Jacobinism can be easily equated with republicanism. Thus, one commentator, Stéphane Baumont, "La République est-elle vraiment indivisible?" *Le Monde*, 4 August 2000, has argued that the notion of "one and indivisible" is a monarchical idea; he refers to the Constitution of 3 September 1791, which had affirmed that "the kingdom, sovereignty, and royalty are indivisible" and rejected federalism, which was at that time equated with [American] republicanism.

[35] Annie Fitte-Duval, "Droit et pluralisme dans l'Etat unitaire," *Revue politique et parlementaire*, 102 (September–October 2000): 52–76.

[36] In 1992, 44 percent of the budget of the ensemble of associations came from public (national, regional, departmental, and local) sources. Jean-Michel Belorgey, *Cent ans de vie associative* (Paris: Presses de la Fondation Nationale des Sciences Politiques, 2000), 81–84.

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the conviction that localities contain social forces with their own identities.[37] These local identities, however, are not necessarily ethnic. Thus, in discussing decentralization, one scholar makes no reference at all to ethnic pluralism,[38] whereas another deplores any connection with it.[39]

Affirmative Action

France has not resorted to U.S.–style affirmative action (*discrimination positive*); yet, it has recognized that certain categoric groups need special attention if they are likely to be victims of adverse discrimination. For that reason, the government subsidized *SOS-Racisme*, a rainbow organization fighting racism, and pursued a policy of facilitating the insertion of *rapatriés* and *harkis* into the national economy. (*Harkis* are Muslims who fought on the French side during the Algerian war of independence and who had often been forgotten, if not mistreated, upon settling in France. *Rapartriés* are French citizens who had lived in Algeria and other French colonies in North Africa and were "repatriated" to France when these colonies gained independence.) A report issued by a commission of enquiry (Commission Belorgey) appointed in 1998 by the Minister of Employment and Solidarity, while not fully embracing the American approach, has argued that some form of "positive discrimination" cannot be excluded, especially in the case of selective ethnic or racial minorities. Although such an approach is not meant to "yield to the temptation to embrace communitarian strategies," it does reflect the belief that French men and women of foreign origin do not have to "efface the traces of their previous ethnicity."[40]

France has made significant progress with respect to women's rights, above all by encouraging an increasing feminization of the staffs of political institutions. This process had already been advanced when Prime Minister Alain Juppé appointed a dozen women to ministerial positions, only to reverse himself when he reshuffled the cabinet in 1996 and left only four women in place. Feminization was advanced further by Lionel Jospin, whose cabinet included several women in the top cabinet ranks. Several years ago, a proposal was introduced within the Socialist party to have women constitute a specific proportion of candidates for elective office. That proposal formed the basis of a constitutional amendment passed by Parliament in 1999, which aims at institutionalizing "parity" between the two genders—equal access of men and women to

[37] See Raymond Ledrut, *Le Pouvoir local* (Paris: Anthropos, 1979).

[38] Douglas Ashford, "Decentralizing France: How the Socialists Discovered Pluralism," *West European Politics* 13 (October 1990): 46–65.

[39] Jean Leca, "Welfare State, Cultural Pluralism, and the Ethics of Nationality," *Political Studies* 39 (September 1991): 568–574.

[40] The report has not yet been published, but some of its contents are found in "Lutter contre les discriminations," *Regards sur l'Actualité*, December 1999, 35–47.

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"elective mandates and functions."[41] Neither the amendment nor the follow-up legislation enjoys universal support, even among individuals who oppose discrimination based on gender. Moreover, its conformity to the spirit of the constitution is far from certain. Some opponents argue that inserting gender parity into the constitution serves to undermine the rights of individuals as such. In any case, it is doubtful whether the legislative or appointive approaches to feminization will serve as models for the treatment of ethnic minorities—that is, the appointment or nomination of representatives as such of the Maghrebi, black, or Asian communities in France. In any case, a move somewhat analogous to the American tradition of ethnically "balanced tickets" was the appointment, shortly after the reelection of Chirac as president, of two Muslims of North African origin to ministerial positions, a development reflecting the growing electoral weight of the Muslim community, which is estimated at about six million.

One of the most recent forays into affirmative action was a proposal in the spring of 2001 to admit a number of young people from working-class backgrounds—specifically, from seven lycées located in poor districts in the Paris area—to the *Institut d'Etudes Politiques* in Paris without having met the normal criteria, including adequate admissions test scores. The number to be admitted in this way was to be limited to twenty (out of more than 700 admitted), but the proposal generated considerable opposition.[42]

Symbolic Approaches to Cultural Pluralism

In discussing possible approaches to ethnic minorities, most of the French note with general disapproval the fact that in the United States ethnoplural society is accepted as normal—a situation signalized by a disaggregation between citizenship and nationality. The former connotes political status and responsibilities and the latter, communalist, ethnic, or other ascriptive attachments. The distinction between membership in the political community and identification with a subpolitical community that could find legitimate expression in the political system is illustrated by the fact that American citizens often define themselves in a hyphenated fashion, including U.S. presidents, who label themselves as Irish-Americans (John F. Kennedy and Ronald Reagan). The multiethnic reality of the United States has been reflected in a number of practices and policies that are often mentioned by some as serving as models for the French and by many others as tending to fragment society and therefore to be avoided at all costs. These include ethnically or racially balanced tickets in state and local elections; ethnic bloc voting; ethnic lobbies; official approaches to bilingualism; candidates for elective office using an ethnic language in their campaigns (analogous to Spanish, Yiddish, or Chinese); ritual visits to Ireland, Is-

[41] Janine Mossuz-Lavau, "La Parité dans la Constitution," *Regards sur l'Actualité*, June 1999, 3–7.

[42] Susanne Daley, "Elite French College Tackles Affirmative Action," *New York Times*, 4 May 2001.

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rael, Italy, and other countries of origin or identification of a sizable portion of the electorate; the delegation of official functions to religious minority communities—for example, the performance of marriages and other rites of passage; the publication of information booklets relating to census forms in over thirty languages; the use of Spanish on election ballots (a practice that is continuing despite U.S.–English laws passed in over twenty states); and preferential quotas for the hiring of people of color by universities and admission as students.

Such practices are summarily rejected by the French. Nevertheless, there are political acts specifically affecting ethnic minorities in France, among them the frequent avowal by political leaders that the country and its society are pluralistic; stressing the contributions minorities are making to overall economic and cultural development; fighting against racism and group libel; and, under certain circumstances, allowing defendants belonging to ethnoregional minorities to use their language in court proceedings.

Such acts tend to be symbolic and are no substitute for more concrete policies; yet they may be institutionalized and gain substance. A comparable process may occur when tabus are broken. Thus, while ethnic lobbies continue officially to be regarded as "un-French," such lobbies do in fact exist—as, for example, *France Plus*, *Renouveau juif*, and several organizations of *Beurs*—and politicians respond to them. Similarly, although pandering to ethnic minority segments of the electorate is denounced, it has in recent years taken place in the form of trips by French politicians to the home countries of selected parts of the electorate (Tunisia, Israel, and Portugal), as have other public actions of special interest to minorities. For example, deputies from Brittany, Alsace, and the Basque region have on occasion publicly defended the unique cultural character of their constituencies. Shortly after his election in 1995, President Chirac asserted on the anniversary of the deportation of Jews from Paris during World War II that it was not just the Vichy regime but French civil servants as the representatives of the French nation who must be held responsible. Jean-Marie Le Pen, the leader of the *Front National*, reacted by unfairly accusing Chirac of paying an electoral debt to the Jewish community.[43] In recent years, national monuments and anniversaries have been set up to commemorate the persecution of Jews specifically, in addition to that of a more general category of resisters or deportees. Furthermore, the Gayssot law, which made incitement to racial, ethnic, and religious hatred a criminal offence, was enacted in 1990 as an affirmative action group libel law against a background of a form of revisionism particularly offensive to the Jewish community, namely, the denial of the historicity of the Holocaust.

Religion officially plays no role in French public schools, but the wearing of Muslim headscarves by young schoolgirls in class has been intermittently permitted, and religiously observant Jewish students have been authorized by a regulation issued by the French Ministry of Education to absent themselves

[43] See Alain-Gérard Slama, "Le Nostra Culpa du Président," *Le Point*, 22 July 1995, 24–25.

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from school examinations on Saturdays.[44] Conversely, while the building of mosques is now widely considered a legitimate part of the exercise of religious freedom, building permits are frequently withheld by municipal authorities. This ambivalence is reflected in the overall attitude of political authorities toward the Muslim presence. While periodically expressing concerns about the "fundamentalist" aspects of Islam, the government is supporting the *Institut du Monde Arabe* (Institute of the Arab World) in Paris and hoping that a Western or, more specifically, French type of Islam will develop, analogous to a French type of Judaism that is not defined in terms of an "ethnonational" way of life.[45] A major step in that direction was taken in April 2003 with the election of a French Council of the Muslim Religion (*Conseil français du culte musulman*), an umbrella organization of various Islamic groups that, like the Jewish *Consistoire*, is to function as an official interlocutor with the public authorities. Furthermore, the traditional republican commitment to *laïcité* is being modified in practice by an acknowledgment of the country's religious pluralism and a growing willingness on the part of public educational authorities to deal with religion as a legitimate cultural subject, such as offering courses on the various cults under the rubric of comparative religion. Such an approach is now easier to pursue than it would have been earlier; and the major denominations are less able to resist it than they were in the past, since there is growing pluralism within the various denominations. There is now competition between traditional Catholic churches that still use Latin and modern Catholic churches that have reformed their ritual since Vatican II; between Orthodox and liberal Judaism; and even between fundamentalist and westernizing Islam. As an example, Catholic Action competes, not only with public authorities and nonsectarian associations, but also with Abbé Pierre's Emmäus in social projects, such as help to immigrants and to the homeless. In any case, the diversity of interpretations, belief systems, practices, and political views within the community of Catholic believers in France makes it difficult for the hierarchy to impose its control and makes the Church much less an enemy to be fought by the proponents of *laïcité* (separation of religion and state).[46]

[44] There are limits to such pluralist permissiveness. In 1994, when the chief rabbi of France complained about the fact that the second round of cantonal elections was scheduled for Passover and argued that voting on that day violated religious prescription, he was roundly criticized for religious interference in the political process. See Henri Tincq, "Les Crispations du judaïsme français," *Le Monde*, 19 March 1994.

[45] In 1998, a Museum of the History and the Art of Judaism was opened in Paris, funded jointly by the national government and the city of Paris. They have refrained from labeling the institution simply a "Jewish Museum," probably in order to avoid an ethnic connotation.

[46] J. M. Donégani, *La Liberté de choisir: Pluralisme religieux et pluralisme politique dans le catholicisme français contemporain* (Paris: Presses de la Fondation Nationale des Sciences Politiques, 1993). See also René Rémond, "Droite et gauche dans le catholicisme français contemporain," *Revue Française de Science Politique* 8 (September 1958): 529–544.

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Problems, Ambivalences, and Inconsistencies

Some of the problems connected with policy innovation, symbolism, and policy constraints have to do with the changing expectations from the state and changing images of society. The fourteen years of the Mitterrand presidency (1981–1995) were marked by an increasingly agitated debate about "national identity."[47] This debate was sparked by the massive immigration of North African Muslims and other non-Europeans and non-Christians whose sheer numbers challenged the French assimilation machinery and whose physiognomies, behavior patterns, "sounds and smells" (to use an unfortunate expression of Chirac before he became president), and sociopolitical values seemed to be so at variance with those of the "typical" light-skinned, secular, and republican French person. All this seemed to alter the fabric of French society and raise the question of whether the traditional French national identity would be altered beyond recognition.[48] There was a consensus among republicans of the Right and the Left that the old Jacobin formula continued to be valid: French national identity was largely a civic one promoted by the state by means of the values it disseminated, the individual rights it guaranteed, and the duties it imposed.

The debate over national identity was accompanied by debates about several other themes: Europe, the role of the state, the crisis of representation, and the question of *laïcité*. European integration was a necessity, but it weakened the state's traditional role in defining national identity. The state's responsibility for maintaining order, insuring justice, and promoting growth and prosperity was not contested; at the same time, it was felt that the state had become so strong and overextended that it threatened civil society, and there were voices pleading for a more "modest" state.[49] The debate about representation was sparked by a growing dealignment from the traditional political parties and a disquieting increase in rates of electoral abstention, developments that raised the question of whether the existing forms of sociopolitical organization and means of articulation were adequate or should be supplemented by others, such as communal, local, professional, or ethnocultural ones. The debate about *laïcité* was sparked by the awareness that many of the new immigrants took religion much more seriously than did "emancipated" middle-class citizens who were products of the French public school system. On the one hand, tolerance required that France and its institutions develop a more supple approach to the contributions of various religions, just as they "must welcome the contributions of linguistic minorities to the cultural richness of the country."[50] On the other hand, there was the danger posed by Islamic fundamentalism, which threatened the

[47] See "Les Grands Débats des années Mitterrand," *Regards sur l'Actualité*, March–April 1995.

[48] See Revue Pluriel-Débat, *La France au pluriel?* (Paris: L'Harmattan, 1984); Espaces 89, *L'Identité Française* (Paris: Editions Tierce, 1985); Club de l'Horloge, *L'Identité de la France* (Paris: Albin Michel, 1985); and Jean-Pierre Colin, *La Beauté du manchot* (Paris: Publisud, 1986).

[49] See Michel Crozier, *Etat modeste, Etat modern* (Paris: Fayard, 1987).

[50] "Les Grands Débats," 53.

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basic values of the French republic, among them pluralism, the separation of religion and state, and gender equality.

The debate about the redefinition of the state had two specific policy consequences, both contributing to the growth of political and socioeconomic pluralism: decentralization, the demands for which go back to the events of 1968 and which are associated with the quest for greater individual autonomy; and privatization, reflecting a neoliberalism inspired by an exaggerated perception of the successes of Reaganite and Thatcherite economic policies.

The reciprocal relationship between this kind of pluralism and ethnocultural pluralism, however, remains a matter of controversy. Insofar as neoliberalism and decentralization contribute to making the central state less overweening, they give civil society and the groups and individuals that compose it greater scope of decision. That, in turn, has meant giving people a greater number of options for cultural and communal identification. Such options have always existed meaningfully in the United States, where a combination of federalism and a relative indifference of the national government concerning language and culture has left states and localities free to make diverse policies regarding languages of public instruction and regarding the promotion of the arts. Thus, although more than a dozen states have passed referenda elevating English as the sole official language, election ballots in some of these states continue to be printed in Spanish and English, while in New Mexico, Spanish and English remain equally official.

In France, by contrast, the state has always taken language and culture as proper domains of national public policy. In principle, decentralization could be expected to enable newly empowered localities or regions where ethnic minorities were strongly concentrated to develop multicultural programs reflecting the texture of their respective populations. However, many of these units have lacked the financial resources to do so, and they have relied on the national government to take the main responsibility. During the first half of the 1980s, the same Socialist government that pursued decentralization simultaneously implemented programs of cultural decentralization.[51] It was perfectly logical that ideological Gaullists, such as Michel Debré, de Gaulle's first Fifth Republic prime minister, and Jean-Pierre Chevènement, an ultranationalist leftist politician, opposed both kinds of decentralization, as they opposed virtually all kinds of institutional pluralism.[52] They argued that while decentralization impaired the decision-making coherence of the state and reduced its ability to resist the inroads of the European Community into French sovereignty, cultural decentralization served to bring down France's ramparts against cultural market forces and, more specifically, against the alleged cultural imperialism of the Americans.

[51] William Safran, "The Mitterrand Regime and its Policies of Ethnocultural Accommodation," *Comparative Politics* 18 (October 1985): 41–63.

[52] When he became interior minister in Jospin's pluralist left government, Chevènement muted his opposition to decentralization, but he resigned when that government introduced a bill to widen Corsican autonomy.

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It should be kept in mind that not all who have been in favor of administrative decentralization have supported cultural pluralism. Some Socialists have persisted in their belief that culture must be the domain of the state and that autonomy for Corsica or Alsace should not mean that these provinces should develop their regional languages at the expense of French. Some of the antipluralistic attitudes have been inspired by genuine concern about national political unity. Others have been influenced by cultural insecurity. Those who regard minority cultures as posing a danger to the majority culture betray an uncertainty about its appeal—a feeling, particularly strong among the older, humanistically oriented intellectual elite that French culture and the French language are beleaguered and confronted by infranational and supranational challenges that feed upon each other. This feeling explains efforts at strengthening *francophonie* (the community of French speakers)—specifically, the adamant position of the Balladur government during the World Trade negotiations regarding the import of American films.

Supporters of cultural pluralism have argued that logical consistency (if not political correctness) demands an official legitimation of minority cultures. Just as progressive forces had defended the grant of independence to colonized peoples in Africa on cultural grounds, so the French state must make up for a past injustice by granting some form of recognition to minorities within the country who were victims of "internal colonialism."[53] Others have argued for the legitimation of ethnic pluralism by questioning long-held assumptions about the uniqueness and universalist pretensions of French civilization; while still others have insisted that the French state is strong enough, the prevailing political values convincing enough, and the national economy's cooptive abilities great enough to counterbalance ethnic diversity.

These disagreements reflect differences of opinion regarding both the relationship between socioeconomic-political-institutional pluralism and plural society and between individual rights and group rights. In the eyes of French Jacobins and American liberal assimilationists, the official legitimation of ethnic minorities implies the granting of ethnic group rights, and these are incompatible with individual rights. In the view of political scientists of the American liberal-pluralist school, it is difficult to combine ethnic pluralism with a democratic, polyarchic, and stable political system. As Talcott Parsons put it, "ethnic subdivisions are not, as such, in harmony with the structural patterns of modern society." Robert Dahl, too, raises doubts about the comfortable coexistence of religious, linguistic, and ethnic subcultures with socioeconomic subdivisions.[54] Yet, he concedes that "competitive politics" can exist even in countries with a considerable degree of subcultural pluralism, as shown by Belgium, Canada, India, and the Netherlands, which have managed to develop and sustain poly-

[53] William Safran, "The French Left and Ethnic Pluralism," *Ethnic and Racial Studies* 7 (October 1984): 447–461.

[54] Dahl, *Polyarchy*, 105–112; see also a recent remark by Arend Lijphart supporting this view, in *ECPR News*, Spring 2001, 20.

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archies.[55] Talcott Parsons goes even further by admitting that these subdivisions do "constitute a focus of security beyond the family unit" and thus perform a "supplementary social function" which, moreover, can be justified simply because it has persisted.[56] According to liberal pluralists, such a combination is possible under certain conditions: the presence of a transethnic elite that shares common political values and methods; the use of mechanisms that depoliticize ethnic differences; the effectiveness of national cooptive devices; the existence of socioeconomic complexities and cleavages within ethnic communities; and the appropriate developmental phases and political attitudes of ethnic communities. Karl Deutsch argues that there are several ways in which ethnic groups can relate to the state: they may deny membership; they may rebel against it; they may be merely passive citizens; they may be politically loyal to the state while maintaining nonpolitical loyalty to their group; or they may become wholly assimilated.[57]

In my view, history suggests that "liberal" institutional pluralism and ethnoplural society are not only compatible, but go hand in hand, as do individual and group rights. The development of polyarchy, the upgrading of civil society, the growth of the welfare state, and the enlargement of individual substantive and procedural rights in France have occurred concurrently with the pursuit of policies reflecting an acceptance of ethnic pluralism. These changes have taken place while a consensus about the political system in general has been achieved, in the sense that today more than 90 percent of the French accept the Fifth Republic constitution as legitimate and workable.

Franco-American Divergences

The connection between institutional democracy, welfare statism, individual rights, and ethnopluralism can be seen in France as well as in the United States. However, American and French attitudes do not exactly coincide. In France, some opponents of cultural pluralism, especially on the left, have justified their positions on the grounds that it interfered with the promotion of equality, social justice, and a policy of inclusion.[58] Many (if not most) American politicians who have attacked cultural pluralism (or cultural relativism)—among them Pat Robertson, leader of the Christian Coalition, and Patrick Buchanan, a right-wing populist and former presidential candidate—have been intolerant toward both the welfare state and individual rights. They have advocated constrictions of due-process protections, of the freedom of expression, and of the right of women to have abortions (but not the right to bear arms), and they have favored an enlargement of the power of the police.

[55] Dahl, *Polyarchy*, 113.

[56] Talcott Parsons, *The Social System* (New York: Free Press, 1951), 182–191.

[57] "Nation-Building and National Development: Some Issues of Political Research" in Karl W. Deutsch and William J. Foltz, eds., *Nation-Building* (Chicago: Aldine-Atherton, 1966), 1–16.

[58] See Claude Liauzu, "Les Courants antipluralistes," *Projet* 255 (Autumn 1998): 99–104.

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The elites in both the United States and in France have invoked cultural arguments against ethnic pluralism; but these arguments are not symmetrical. In the United States, Republicans and other elements on the right argue that multicultural educational curricula are used by ethnoracial minorities to promote a form of internal cultural separatism and thereby to destroy the unity of the political community; while elements on the left regard such curricula as a justified correction by racial minorities, women, and other historically disadvantaged categories of the domination of the cultural patrimony of "dead European males." In the United States, the minorities' fight against Eurocentrism has become politically correct, which is an indication that minorities have acquired considerable political power and a certain currency in academia.

In France, too, opposition to cultural pluralism is defended by those who wish to protect European culture. The political Left (for example, Chevènement and Schnapper) opposes pluralism because they believe that it will lead to segregation, ghettoization, and the weakening of the principles of equality and, therefore, the republic.[59] The political Right opposes it for reasons of xenophobia: it has an organicist conception of the French nation into which minorities, especially immigrants, nonwhites, and non-Christians, do not fit. Indigenous inhabitants of the country, such as Bretons and Occitans, do fit, but their cultural-linguistic claims are not considered serious or threatening enough. Not all opponents of pluralism, however, are racist or antirepublican. One may propose intuitively that to the extent that pluralism refers to mass popular culture, it is likely to be opposed by the conservative elite; to the extent that it refers to multilingualism, it is likely to be opposed by humanistic academicians whose very professional existence is associated with the French language and who—unlike scientists and high-tech specialists—see their status undermined. Appropriate survey research might shed clearer light on this matter.

The members of the *Club de l'Horloge* and other nationalists argue that a permissive attitude toward cultural pluralism clears the field for those who would replace French national culture by a vulgarized, American-accented mass culture or worse by an Islamic counter-culture in which politics and religion are fused, pluralism is condemned, and the position of women is inferiorized. French intellectuals, including those on the left, are in this respect in agreement with right-wing nationalists.

To what extent are such attitudes embodied in actual policy? In the United States, "U.S.–English" laws, which reflect a tendency to a monistic view of culture, are not effectively enforced because of vertical institutional pluralism.[60] Furthermore and ironically, most American conservatives who are against cultural pluralism are also in favor of restoring or expanding subfederal rights, which in theory would make it possible to preserve and even expand multicul-

[59] See Jacques Barou, "La France, société multiculturelle?" *Projet* 255 (Autumn 1998): 45–56.

[60] See William Safran, "Pluralisme, Démocratie, et Droits Linguistiques aux Etats-Unis" in Henri Giordan, ed., *Les Minorités en Europe: Droits Linguistiques et Droits de l'Homme* (Paris: Kimé 1992), 537–568.

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tural policies! Conservatives, however, hope to counteract such a development by promoting cultural uniformity as much as possible on a national level—for example, by according a preferred position to Christianity through federal measures legalizing school prayers, criminalizing abortion, limiting affirmative action, and inhibiting diversities of lifestyles.

Similarly, in France, statutory laws, regulations, and a variety of carrot-and-stick approaches—all of them manifestations of the continuation in principle of national cultural *tutelle* (tutelage)—have not succeeded in restricting multiple cultural-linguistic infusions from the provinces, from abroad, and from the market. At the same time, in contrast to the United States, where public funding for cultural projects has been progressively reduced, French governmental budgetary outlays for such projects have increased.

It is argued that in a truly liberal society, minorities may cater to their particular cultural needs by using the freedoms and resources available in civil society. In reality, however, "political society is not neutral between those who value remaining true to the culture of [their] ancestors and those who might want to cut loose in the name of some individual goal of self-development." A "procedurally liberal" society may make such a choice possible theoretically; but it is often insufficient for cultural survival. "It is not just a matter of having [a language] available for those who might choose it . . . it also involves making sure that there is a community of people here in the future that will want to avail itself of the opportunity to use [that] language."[61] A policy that accords special legitimacy and official support to the majority culture—and does not protect the cultural continuity of minorities but leaves such protection to the private sector in effect discriminates against members of the minority community. This applies in particular to France, where in contrast to the United States, civil society has never effectively competed with the state as a source of educational and cultural support. That reality explains why virtually all left-wing proponents of cultural pluralism have continued to rely on the state to promote it actively and why the right-wing proponents of decentralization and privatization, whether they have favored multiculturalism or not, have gotten nowhere in their American-style efforts at encouraging the private sector to assume a greater role in the furtherance of education, culture, and the arts. In sum, equal protection of the laws often implies or requires not merely a permissive approach but a specific set of active and supportive public policies.

The preceding discussion suggests that institutional pluralism and ethnoculturally plural society have positive reciprocal effects. The claims of culturally differentiated subcommunities can in many cases be addressed only through a vertical diffusion of power—that is, by means of subnationally specific politico-administrative approaches; conversely, decentralization and other approaches

[61] Charles Taylor, "The Politics of Recognition" in Charles Taylor, *Multiculturalism: Examining the Politics of Recognition*, edited and introduced by Amy Gutman (Princeton: Princeton University Press, 1994), 58–59.

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to polyarchy open up opportunities for the assertion of ethnoculturally particularistic policies. The discussion also indicates that the French have been moving a considerable distance toward both plural society and institutional pluralism. This has not been an easy process because the idea of a sovereign, centralized, and interventionist state has been a major component of France's political belief system. But this process has been threatened by the push of market forces and the exigencies of globalization—developments that increase the power of multinational corporations and reduce the state's room to maneuver in economic policy.[62] But massive immigration, supranational integration, and cultural infusions have challenged France's national identity.

Thus, despite the great progress in institutional decentralization and in the scope accorded to nonstate sectors—a development that has created a more balanced decision-making pattern[63]—the French remain state-centered. In part, this is because of the belief that the state has had historical precedence over civil society. This is in contrast to the dominant theory in the United States and Britain, which conceives of civil society in the form of intermediate groups as an independent variable. In France, even those who speak favorably of the expansion of the powers of civil society argue that it was a grant from the state. For Pierre Rosanvallon, "social" [intermediate] groups were "invented [sic] at the end of the nineteenth century . . . in order to make society more governable . . . by legalizing the modes of aggregation of interests and by instituting [ways] of regulating the [function of] intermediaries between the State and individuals." Examples are parties, churches, and interest groups.[64] Such a discussion of the relationship between the state and civil society is particularly widespread at this writing, as France recently celebrated the 100th anniversary of the adoption of Law on Associations.[65]

Although the state remains dominant, it must not be overbearing. Just as there is an increased recognition of the need to have a more equal relationship between the state and civil society so that one would not crush the other, there has been a growing acknowledgment of the fact that society reflects a plurality of interests and orientations, which must be taken into account lest excessive individualism destroys social coherence. As Jean Leca, a committed Jacobin, has put it, "I want my values to be recognized as good ones; [for if not], my dignity is hurt and I become an animal in a reservation."[66] The call for a more open

[62] See Françoise Milewski, "Mondialisation et contrainte extérieure," *Regards sur l'Actualité*, September-October 1997, 19–36.

[63] See Guy Carcassonne, "Les evolutions de la Ve République: Société civile et État, un nouvel équilibre?" in Philippe Tronqoy, ed., *La Ve République, permanence et mutations*," Cahiers français 300 (Paris: Documentation Française, 2001), 55–61.

[64] Pierre Rosanvallon, "Les Utopies régressives de la démocratie" in Daniel Cohen et al., eds., *France: Les Révolutions invisibles* (Paris: Calmann-Lévy, 1998), 209.

[65] See Belorgey, *Cent Ans.*

[66] Jean Leca, cited in Annie Fitte-Duval, "L'État unitaire face à la diversité régionale" in *La Ve République, permanence et mutations*, Cahiers français 300 (January–February 2000), 66.

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acknowledgment of pluralism is, however, not without reservations. It does not embrace what Leca has called "radical pluralism," which refers to the refusal to accept the values of the whole political community.[67] The recognition of the pluralistic nature of society should also not be used to differentiate between groups in a negative sense, that is, to discriminate against them because of their unique backgrounds.

In France, unfortunately, tolerance toward a multiplicity of *origins* has not yet comfortably translated into a tolerance toward multiple *identities.* One reason for that difficulty has been the conflation of cultural orientations and interest with political loyalty; another is a heightened insecurity about of the national identity of French men and women in the face of a growing supranational European identity and, more recently, globalization.

Conclusion

The fact that such a conflation is only rarely posited in the United States explains why ethnoplural society has been fitted into the pattern of institutional pluralism with less difficulty by Americans than by the French, and why Americans consider ethnic lobbies to be as legitimate as labor or farmers' lobbies. In other words, Americans are much less uptight about cultural pluralism than are the French, because they do not see a dysfunctional dichotomy between ethnically specific cultural orientations and transethnic civic attitudes. For Horace Kallen, cultural pluralism is not only compatible with American general culture, but it is complementary to it and strengthens it. One may take issue with Walzer's argument that "Americans expand their solidarity by taking new nations into their state (Slavs, Italians, etc.) [whereas] . . . Europeans are more likely to form economic unions or political federations with other nation-states. In the first case, the politics of difference produces new, hyphenated identities (for example, Asian-American) in place of the old singularities. In the second, it produces a new singular identity (European, say) alongside and in addition to the old one."[68]

Still, Walzer poses this question: To what extent do ethnic or hyphenated loyalties interfere with "civic" loyalties,[69] and to what extent can a good republican be a good cultural pluralist, and vice versa?[70] Is an unhyphenated Frenchman who is a monarchist or fascist a better citizen than a hyphenated one who is a resistance fighter? Is an unhyphenated American citizen who is a tax evader a better citizen than a hyphenated one who obeys the laws? If "a good republican" is defined restrictively as a person who puts all the eggs of his identity into the political or civic basket, then a pluralist cannot be a good republican.

[67] Jean Leca, "La Démocratie à l'épreuve des pluralismes," *Revue Française de Science Politique* 46 (April 1996), 269.

[68] Michael Walzer, *What Does It Mean to Be an American?* (New York: Marsilio, 1992), 15.

[69] Ibid., 29.

[70] Ibid., 38–39.

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However, as Ernest Barker argues, an exclusively "political" identity, which implies an identification only with the rights and economic benefits associated with the state, cannot bring full self-realization. Both the identification with social, economic, and other subpolitical communities and the identification with the polity are necessary in order to keep a balance between civil society and the state, just as it is necessary for a stable democracy to keep a balance between liberty and authority or prosperity and justice. As Ernest Barker puts it, "the state which is all and everything is a state that invites negation."[71]

French Jacobins often assert that whereas the complementary or double identity of hyphenated Americans may be appropriate for a country marked by a cultural tabula rasa and composed largely of immigrants, it does not make sense in a country that was already settled by a community marked by a national civilization. Moreover, the immigrants could be Americanized relatively painlessly, because by the very act of immigration, they voluntarily cut the political, if not always the cultural, links with their countries of origin. This argument applies equally to immigrants to France. Nevertheless, in 1981 the government permitted the creation of associations of foreign immigrants on the same basis as French associations and allowed them to receive and disburse public funds. This must not, however, be construed as a specific support of ethnopluralist organizations, since the immigrants were expected sooner or later to become French. That same reasoning explains why France, unlike the United States, does not distinguish between native-born and naturalized citizens: since 1981, the latter may even run for the presidency. But it cannot be used for its indigenous ethnic minorities such as the Bretons, Alsatians, Basques, and Provençals, who have occupied their respective terrains for generations, have not moved, and have not been personally consulted about their willingness to give up their culture.

In France, the development of pluralistic culture was prevented by the state, which beginning with the Third Republic pursued a single-minded policy of cultural homogenization. In the United States, in contrast, the state seldom interfered with whatever local political units or civil society did to maintain cultural pluralism. Today, according to Walzer, such a distinction has lost relevance because "both our singular citizenship and our pluralistic culture are threatened by radical individualism and the 'antipolitics' of privatization . . . for culture is not sustained by private individuals but families, groups, communities that exist in civil society.[72]

Diana Pinto has argued that because of historical, structural, and ideological differences, a contrast remains between French and American models of national integration and nation-building. The U.S. approach—the acceptance of ethnocultural pluralism—has continued to function as a foil and a count-

[71] Ernest Barker, *Reflections on Government* (New York: Oxford University Press, 1958), 20–21.
[72] Walzer, *What Does It Mean to Be an American?*, 11.

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ermodel.[73] Nevertheless, she detects a gradual "sliding" into American patterns, in the sense that immigrants are no longer merely the raw material of the melting pot upon whom a single model of French identity is imposed but have also become a participant in the redefinition of that identity.[74] As she put it, the sociological reality has been gaining ground over the historic truth. In other words, while the state continues to adhere to the Jacobin principle of a "one and indivisible French nation," in which state and nation, and citizenship and nationality, are congruent,[75] "French society has been evolving in a much more flexible and pluralistic fashion, implicitly imbued by a model of integration and cultural 'laissez-faire' much closer to the American experience."[76] To the extent that this is happening, ethnocultural pluralism can be fitted more easily into the institutional patterns of social and political pluralism in France, a pluralism for which the United States has increasingly served as a positive model.

[73] See Diana Pinto, "Immigration: L'Ambiguïté de la référence américaine," *Pouvoirs* 47 (1988), 93–101.

[74] Ibid., 95.

[75] This principle was reflected unambiguously in the report of the Commission de la Nationalité, *Etre Français aujourd'hui et demain* (Paris: Documentation Française, 2 vols., 1988).

[76] Pinto, "Immigration," 97.

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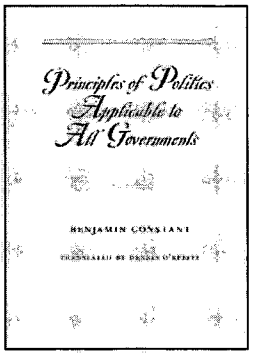
Coming Soon from Liberty Fund: Benjamin Constant's Classic Work of Political Philosophy

Principles of Politics Applicable to All Governments

By Benjamin Constant
Translated by Dennis O'Keeffe
Introduction by Nicholas Capaldi



Principles of Politics, first published in 1815, is a "microcosm of [Constant's] whole political philosophy and an expression of his political experience," says Nicholas Capaldi in his Introduction. "Constant saw freedom as an organic phenomenon: to attack it in any particular was to attack it generally." In ***Principles***, Constant "explores many subjects: law, sovereignty, and representation; power and accountability; government, property and taxation; wealth and poverty; war, peace, and the maintenance of public order; and above all freedom, of the individual, of the press, and of religion." Constant also felt it was relatively unimportant whether liberty was ultimately grounded in religion or metaphysics—what mattered were the practical guarantees of practical freedom—"autonomy in all those aspects of life that could cause no harm to others or to society as a whole."

Benjamin Constant (1767–1830) was born in Switzerland and became one of France's leading writers, as well as a journalist, philosopher, and politician. His colorful life included a formative stay at the University of Edinburgh; service at the court of Brunswick, Germany; election to the French Tribunate; and initial opposition and subsequent support for Napoleon, even the drafting of a constitution for the Hundred Days.

Constant wrote many books, essays, and pamphlets. His deepest conviction was that reform is hugely superior to revolution, both morally and politically. While Constant's fluid, dynamic style and lofty eloquence do not always make for easy reading, his text forms a coherent whole, and in his translation Dennis O'Keeffe has focused on retaining the "general elegance and subtle rhetoric" of the original.

This translation is based on Etienne Hofmann's critical edition of *Principes de politique* (1980), complete with Constant's additions to the original work.

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Direct Democracy and Institutional Realignment in the American States

CAROLINE J. TOLBERT

Scholars who study institutions recognize that political structures shape the context in which actors make choices that lead to policy outcomes.[1] While much progress has been made in understanding how institutions affect political actors, preferences, and public policy, we have little understanding of the process of institutional change.[2] How and why do American political institutions change over time? One window into understanding institutional change may be the study of procedural public policy, which alters government rules, structures, and organization. My research attempts to explain the adoption of procedural policy at the state level that shapes representative institutions of government, especially state legislatures and election systems. Citizen ballot initiatives at the state level are proposed as a catalyst for the adoption of procedural policy and in turn institutional change of representative democracy. While relatively understudied compared to other electoral institutions, this research places the increased use of direct democracy at the state level as a component of a larger reform movement in American politics at the end of the twentieth century.

[1] See James G. March and Johan P. Olsen, "The New Institutionalism: Organizational Factors in Political Life," *American Political Science Review* 78 (Fall 1984): 734–749; B. Guy Peters, *Institutional Theory in Political Science: The New Institutionalism* (London, New York: Pinter, 1999); Sven Steinmo, Kathleen Thelen, and Frank Longstreth, eds., *Structuring Politics: Historical Institutionalism in Comparative Analysis* (Cambridge UK: Cambridge University Press, 1992).

[2] Kathleen Thelen and Sven Steinmo, "Historical Institutionalism in Comparative Politics" in Steinmo, Thelen, and Longstreth, eds., *Structuring Politics.*

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Procedural policies such as legislative term limits, legislative redistricting laws, mail ballots, computerized voting systems, campaign finance reform, and election system change do not fit traditional definitions of distributive, redistributive, regulatory, or constituent policy proposed by Theodore Lowi.[3] Instead, these policies may be commonly referred to as "governance policy."[4] Defined as procedural policy that is focused explicitly on political reform, governance policies are rule changes applied to government institutions. Governance policies alter the political system by changing rules governing elections and voting, political campaigns, levying taxes, or self-governance. Governance policy is an aspect of public policy that has received less attention than traditional substantive policies, such as health, welfare, education, or other expenditure policies. But governance policy may be even more important than substantive policy in changing the structure and organization of representative government. Do political institutions—beyond the electoral arrangements that are often studied—drive the use of governance policy? Why are some states more likely to change the rules governing public sector organizations than others?

While there are many examples, this analysis examines the adoption of nine governance policies across the fifty states during the period from 1970–1999: legislative term limits; supermajority rules for tax increases; voter approval of tax increases; complete open primary; blanket or nonpartisan primary; campaign contribution limits; public financing of political campaigns; mandated electronic filing of campaign contributions; and all-mail voting ballots.

To understand these policy adoptions, a two-stage model is proposed in which rapid social and economic change leads to frustration with traditional representative channels. This leads to the use of alternative mechanisms for policy decisions, such as ballot initiatives and referenda. Use of initiatives by state electorates is, in turn, used to change the structure and operation of representative government.

Like historical Progressive reforms adopted at the turn of the twentieth century, contemporary governance policy modifies institutional rules that in the aggregate can restructure the U.S. political system. The first section lays out the model of institutional realignment presented in this research. The second section presents historical data on the use of ballot initiatives by state electorates over the past century, as well as a breakdown of the subject matter of initiatives appearing on state election ballots during periods of frequent use of the process. The third section explores the social and economic context associated with increased usage of direct democracy over the past century. The fourth section employs multivariate statistics to examine whether states with frequent use of direct democracy are more likely to adopt nine contemporary governance policies.

[3] Theodore Lowi, "Four Systems of Policy, Politics and Choice," *Public Administration Review* 33 (Summer 1972): 298–310.

[4] Caroline J. Tolbert, "Changing Rules for State Legislatures: Direct Democracy and Governance Policies" in Shaun Bowler, Todd Donovan, and Caroline J. Tolbert, eds., *Citizens as Legislators: Direct Democracy in the United States* (Columbus: Ohio State University Press, 1998).

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Direct Democracy as a Catalyst for Institutional Realignment

Major periods of political reform occur infrequently in American politics, as political institutions—federalism, separation of power, fragmented power, pluralism—were designed to resist efforts at change and protect the status quo. Researchers have long recognized cyclical patterns in partisan realignments as a way that the political system adapts to change over time.[5] This research, in contrast, proposes institutional realignment as a mechanism for change. Rather than arising from partisan shifts, change in American politics may arise from the dealignment of representative institutions of government with new socioeconomic conditions. The argument developed here is that use of direct democracy at the state level may function as an adaptive mechanism, realigning political institutions with changing social and economic conditions. Rather than incremental change, policies adopted via ballot initiatives and referenda often result in dramatic change. At the turn of the twentieth and twenty-first centuries, there is increasing interest in changing the rules governing democratic institutions.

Growing public frustration and distrust of elected officials may be symptoms of a political system that is out of sync with rapidly changing economic and social (demographic) conditions.[6] In the wake of the 2000 presidential elections, numerous governance policies have been proposed to update the U.S. election system for the twenty-first century—computerized voting systems, proportional allocation of electoral college votes, instant run-off elections, same day voter registration, even dismantling the electoral college. These policies have been proposed because reform of political institutions necessarily lags behind changes in the economy and social structure.[7]

At the turn of the twentieth century, reform of government institutions lagged behind the changes brought on the by the Industrial Revolution and by historic waves of white ethnic immigration from eastern and southern Europe. This lag in reform of political institutions led to unprecedented distrust of

[5] James Sundquist, *Dynamics of the Party System* (Washington, DC: Brookings Institution, 1983); Arthur M. Schlesinger, Jr., *The Coming of the New Deal* (Boston: Houghton-Mifflin, 1958); Walter Dean Burnham, *Critical Elections and the Mainsprings of American Politics* (New York: Norton, 1970); Samuel Huntington, *American Politics: The Promise of Disharmony* (Cambridge, MA: Harvard University Press, 1981).

[6] Scholars argue that both the very early and late decades of the twentieth century are transformational periods in American history. See Lawrence Dodd, "Congress, the Presidency, and the American Experience: A Transformational Perspective" in James A. Thurber, ed., *Divided Democracy: Cooperation and Conflict Between the President and Congress* (Washington, DC: Congressional Quarterly Press, 1991); Lawrence Dodd, "Transformational Politics" in Lawrence Dodd and Calvin Jillson, eds., *The Dynamics of American Politics: Approaches and Interpretations* (Boulder, CO: Westview Press, 1993); Lawrence Dodd, "The New American Politics: Reflections on the Early 1990s" in Bryan Jones, ed., *The New American Politics* (Boulder, CO: Westview Press 1995).

[7] Caroline J. Tolbert, "Rethinking Lowi's Constituent Policy: Governance Policy and Direct Democracy," *Environment and Planning C: Government and Policy* 20 (Winter 2001): 75–93.

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elected officials and widespread concerns about government corruption culminating first in the Populist Movement (1880–1890s) and later the Progressive Movement (1890–1917). Both grassroots movements originated at the state and local levels. The Progressive era was a major period of systemic reform of local, state, and federal government institutions, culminating in the creation of a national administrative state.[8] Progressive reforms served to create hierarchical bureaucratic organizations to prevent political corruption and restore public trust in government. By changing political institutions, Progressive reforms reshaped American democracy both substantively and procedurally and were critical in adapting government institutions for a new industrial economy.

Based on the convergence of six contextual factors, this research suggests that we may be on the brink of another major reform era in American politics. First, paralleling the turn of the twentieth century before the rise of the administrative state and consistent with broader trends of devolution in the 1980s and 1990s, state legislation often precedes federal policy. Now, at the turn of the twenty-first century, Congress is reactionary in the area of political reform and other substantive policy, while state and local governments are policy innovators.

Second, the turn of the twenty-first century is a transformational period in American economic history, an era of rapidly changing information technologies, the Internet, e-commerce, global economy, and economic dislocations.[9] This change parallels the economic transformations and upheavals occurring during the Progressive era when the economy shifted from a rural, agrarian organization to an industrial, urban one.

Third, both the turn of the twentieth and twenty-first centuries are distinguished by historic rates of immigration, the former from eastern and southern Europe and the latter from Asia and Mexico. Contemporary immigration has led to rapid demographic change in the racial and ethnic composition of the American states.[10] In some states, growing racial diversity has fostered a white backlash against legislation designed to benefit racial and ethnic minorities, such as affirmative action, bilingual education, and welfare for immigrants. During the turn of the twentieth century, ethnic diversity in the cities similarly fostered a white backlash and widespread concerns about government corruption and the party machines.

Fourth, again paralleling the rise of Populist and Progressive movements, a distinguishing feature of politics at the turn of the twenty-first century is a pervasive sense of public distrust, frustration, and alienation with government

[8] Stephen Skowronek, *Building the New American State: The Expansion of National Adaptive Capacities, 1877–1920* (Cambridge, UK: Cambridge University Press, 1982).

[9] B. Guy Peters, *The Future of Governing: Four Emerging Models* (Lawrence, KS: Kansas University Press, 1996); David Osborne and Ted Gaebler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector* (Reading, MA: Addison-Wesley, 1992).

[10] Eileen McDonagh, "Race, Class and Gender in the Progressive Era" in Sidney Milkis and Jerome Mileur, eds., *Progressivism and the New Democracy* (Boston, University of Massachusetts Press, 1999).

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that is perceived as corrupt and unresponsive.[11] American politics is characterized by a persistent distrust of elected officials and, in some states, by a turn away from representative government in favor of participatory democracy for important policy decisions.[12]

Fifth, during the turn of the twentieth century and the contemporary period, there has been an explosive use of direct democracy in the American states to decide policy issues that are often focused on governance. As political institutions once again lag behind economic and social change, reforming government for the technological age has become a central focus of contemporary American politics—from Vice President Al Gore's *National Performance Review* and David Osborne and Ted Gaebler's *Reinventing Government* (1992) to calls for internet voting. As the nation watched the events of the 2000 presidential elections unfold, it became clear that major innovation of voting technology is overdue in America.[13]

Sixth, during both the historical and the contemporary period, reform was focused on the adoption of governance policies. Progressive reformers promoted a slate of governance policies, including the direct election of U.S. senators, direct primaries, home rule for municipalities, secret ballots, Australian ballots, nonpartisan local elections, at-large elections, merit hiring systems, professional city managers, women's suffrage, direct democracy (initiative, referenda, and recall), and many other procedural policies that characterize reformed cities and states.[14] Many Progressive era reforms were first adopted via ballot initiatives or legislative referenda or by state legislatures under the threat of citizen petition drives.[15] These reforms were also initiated by local governments and adopted by local referenda. State and local provisions for direct democracy served as a catalyst for reform, allowing groups outside of the legislature to shape the political agenda in order to restructure public sector organizations.

The dual character of Progressive era reforms is presented in the literature. Some procedural policies strengthened democracy by expanding suffrage to women, creating the merit system to limit political corruption, and restoring pub-

[11] Stephen Craig, "The Angry Voter: Politics and Popular Discontent in the 1990s" in Stephen Craig, ed., *Broken Contract? Changing Relationship Between Americans and Their Government* (Boulder, CO: Westview Press, 1996); Jack Citrin, "Who's the Boss? Direct Democracy and Popular Control of Government" in Stephen Craig, ed., *Broken Contract?*

[12] Alan Rosenthal, *The Decline of Representative Democracy: Process, Participation and Power in State Legislatures* (Washington, DC: Congressional Quarterly Press, 1997).

[13] David Osborne and Ted Gaebler, *Reinventing Government: How the Entrepreneurial Spirit Is Transforming the Public Sector* (New York: Dutton, 1992).

[14] Clarence Stone, Robert Whelan, and William Murin, *Urban Policy and Politics in a Bureaucratic Age*, 2nd ed. (Englewood Cliffs, NJ: Prentice-Hall, 1986); Robert Lineberry and Edmund Fowler, "Reformism and Public Policies in American Cities," *American Political Science Review* 61 (Fall 1967): 701–716.

[15] See Elizabeth Gerber, *The Populist Paradox: Interest Group Influence and the Promise of Direct Legislation* (Princeton: Princeton University Press, 1999) for an extension of this argument.

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lic trust in government.[16] Other reforms (at-large elections) weakened political parties and dramatically lowered voter turnout rates, especially among ethnic urban immigrants.[17] By weakening political parties and patronage, Progressive reforms served to consolidate white middle and upper class political power. While not without a cost, the net effect of Progressive reforms was to rebuild trust in the institutions of representative democracy.

Examples of contemporary governance policies adopted in the last two decades of the twentieth century include campaign finance reform, legislative term limits, legislative redistricting laws, supermajority rules for tax increases, mail ballots, same-day voter registration, and online registration. Sponsored by both liberal and conservative groups, the dual character of these reforms is apparent. Legislative term limits and tax limitations may weaken state legislatures and ultimately representative institutions.[18] Other reforms or proposed reforms, such as publicly financed campaigns, public disclosure laws, free air time for ballot-qualified candidates, electronic town-meetings, proportional representation, cumulative voting systems, a national referenda, electoral college reform, instant run-off voting, Internet or mail ballots, computerized election ballots, and even a value-added tax may offer a means of updating American democracy for the twenty-first century and rebuilding trust in government.

Cyclical Pattern in Use of Direct Democracy

An important governance policy was the adoption of the initiative and referenda in nineteen states during the first two decades of the twentieth century. The reforms were passed in response to widespread corruption and the perceived strong influence of the powerful railroads over state legislatures. Today, twenty-four states include constitutional provisions for the initiative process, which allows citizens or groups to draft new state laws or amend the state constitution. The process allows groups outside of the legislative arena to draft legislation and qualify it for the statewide election ballot by collecting a specified number of voter signatures.[19] In the referenda, by contrast, voters can only respond to policy formulated by the legislature. Often used by political entrepre-

[16] Skowronek, *Building the New American State.*

[17] Rodney E. Hero, *Faces of Inequality: Social Diversity in American Politics* (New York: Oxford University Press, 1998); Mark Baldassare, *California in the New Millennium: The Changing Social and Political Landscape* (Berkeley: University of California Press, 2000).

[18] David Broder, *Democracy Derailed: Initiative Campaigns and the Power of Money* (Orlando, FL: Harcourt Brace Publishers, 2000); Tolbert, "Changing the Rules for State Legislators"; Rosenthal, *The Decline of Representative Democracy.*

[19] Shaun Bowler and Todd Donovan, *Demanding Choices: Opinion, Voting and Direct Democracy* (Ann Arbor: University of Michigan Press, 1998); David Magleby, *Direct Legislation: Voting on Ballot Propositions in the United States* (Baltimore, MD: John Hopkins University Press, 1984); Thomas E. Cronin, *Direct Democracy: The Politics of Initiative, Referendum and Recall* (Cambridge, MA: Harvard University Press, 1989).

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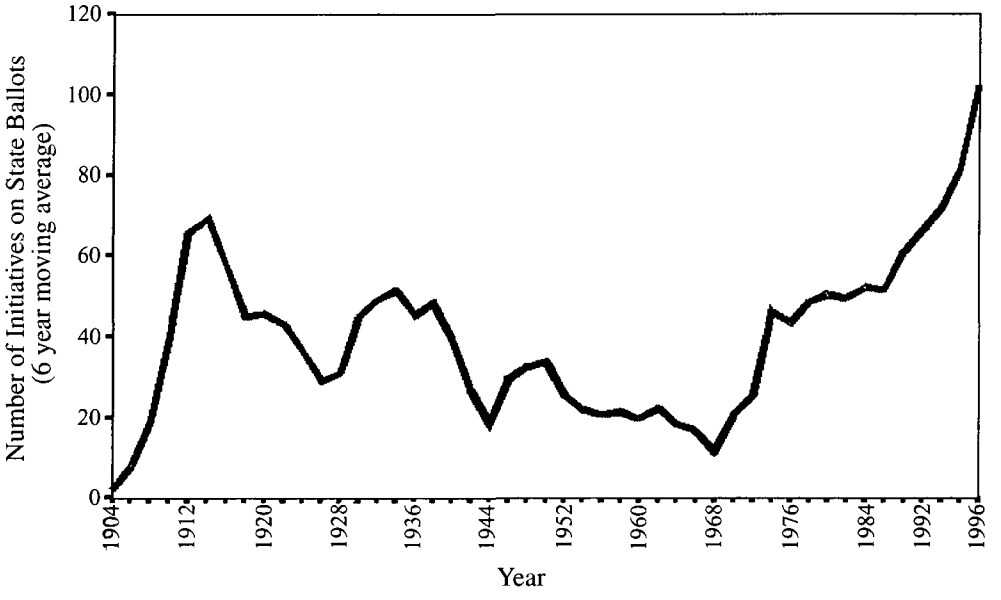
FIGURE 1
Frequency of Initiatives on State Election Ballots



Source: Raw data from the Initiative and Referendum Institute, Washington, DC. Analysis by the author.

neurs,[20] the initiative has been the most common tool of state governmental reform, largely due to its agenda-setting power.

Historical use of ballot initiatives by state electorates reveals two distinct periods of voter activism during the twentieth century. Figure 1 presents a moving average of the number of initiatives appearing on state election ballots for the period from 1904–1996.[21] Use of the initiative process was dramatic during the Progressive era: between 1910 and 1919, a record-setting 269 measures went to a vote, of which ninety-eight were approved. The initiative process was used only sparingly during most of the middle decades of the twentieth century (1940–1960). On average in the 1950s and 1960s, fewer than eight initiatives were enacted per election cycle.[22] The passage of California's Proposition 13 property tax limitations in 1978 sparked a renewed interest in direct democracy in the states and gave rise to a tax revolt that rolled eastward all the way to Washington, DC. In the last two decades of the twentiethth century, an unprecedented number of initiatives have appeared on statewide ballots, many demanding a greater role for the public in issues of governance.

[20] Daniel Smith, *Tax Crusaders and the Politics of Direct Democracy* (New York: Routledge, 1998).

[21] Data is from the Initiative and Referenda Institute, Washington, DC, and is the most comprehensive source available.

[22] David Magleby, "Direct Legislation in the American States" in David Butler and Austin Ranney, eds., *Referendums Around the World: The Growing Use of Direct Democracy* (Washington, DC: American Enterprise Institute, 1994).

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During the contemporary period, state legislatures also referred an increasing number of statutes and constitutional amendments to citizens for a popular vote (that is, legislative referenda). State legislatures were the primary source of 226 ballot proposals in 1998 by a margin of almost 3:1.[23] Not only has there been a significant increase in the use of local initiatives and referenda, but many states have also considered adopting the initiative process, including New Jersey and Minnesota, while only Mississippi succeeded in 1992. State legislators of both political parties resist efforts to adopt the process for fear of giving too much power to the voters.

While a causal mechanism is difficult to prove, increased usage of direct democracy may be a response to rapid demographic change. The late nineteenth and early twentieth centuries were distinguished by growing ethnic diversity in America, with historically high rates of immigration from eastern and southern Europe. Progressive reformers were concerned with the disproportionate representation of ethnic immigrants in urban political machines and resentful of how local political machines made use of the immigrant vote.[24] Reformers used the initiative process to pass political reforms (at-large elections, merit hiring systems, professional city managers, direct primaries, secret ballot, nonpartisan local elections, and direct election of United States senators) to weaken urban party machines that were perceived as overly responsive to ethnic immigrants. Progressive reforms, especially at-large elections, weakened the parties and lowered voter turnout rates among ethnic urban immigrants.[25] Today, use of ballot initiatives by state electorates may be partially understood as constraining state legislatures' perceived overresponsiveness to ethnic and racial minorities.

Is direct democracy a safety valve that helps preserve representative governing institutions, as proponents' claim? Or has direct democracy become a preferred form of decision making, as in California,[26] threatening to replace or undermine representative government?[27] Given the explosion in usage of direct democracy in the last two decades, will its legacy be to undermine or strengthen representative democracy? The majority of research examining direct democracy in the contemporary period fails to situate the process in its historical context or relies on an idealized account of the Progressive era.[28] However, some research finds that the same combination of well-funded industry groups and

[23] Initiative and Referendum Institute, Washington, DC (http://www.ballotwatch.org), November 1998.

[24] Charles Price, "The Initiative: A Comparative State Analysis and Reassessment of a Western Phenomenon," *Western Political Quarterly* 28 (Summer 1975): 243–262.

[25] McDonagh, "Race, Class and Gender in the Progressive Era."

[26] Peter Schrag, *Paradise Lost: California's Experience, America's Future* (New York: The New Press, 1998).

[27] Broder, *Democracy Derailed*; Rosenthal, *The Decline of Representative Democracy.*

[28] Broder, *Democracy Derailed.*

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broad-based citizen groups have used the initiative process since its inception.[29] A partial answer to what drives use of direct democracy by state electorates may be found in examining what the process is used for, namely public policy.

There are strong parallels between the general subject matter of ballot initiatives during the beginning (1900–1920) and end (1980–1996) of the twentieth century.[30] In the first two decades of the twentieth century, 350 initiatives qualified for the ballot in the nineteen states that provided for direct democracy. Governmental reform was the most common subject during this period, comprising 36 percent of all initiatives appearing on state election ballots. Fiscal policy (taxation, spending, and bond issues) was the second most common subject matter, accounting for 22 percent of the total.

During the last two decades (1980–1996) a record 570 initiatives appeared on statewide ballots. Governance was again the most common subject, accounting for almost a quarter of the total (23 percent). This percentage was down slightly from the 36 percent during the period from 1900 to 1920. Twenty-two percent of the total dealt with issues of taxation, spending, and bonds, exactly the same proportion as during the Progressive era. Fifteen percent of initiatives dealt with social policy during the Progressive era (1900–1920), roughly the same (17.5 percent) during the contemporary period. Labor issues, however, were clearly a more important policy issue during the Progressive era (6 percent of the total) than today (3 percent of total). The overall passage rate for initiatives from 1900–1920 was 43 percent and has increased modestly to 47 percent for the period from 1980–1996.

While state policy agendas have been subject to an evolutionary process, in the past and today the process creates a venue for substantive reform in social, environmental, criminal justice, and education policy. But during both the historical and contemporary periods, governance was the most common subject to appear on state election ballots. While some policies adopted by ballot initiative may weaken specific governing institutions, others may serve to reconnect citizens with their elected officials and rebuild political trust. The target of reform during the Progressive era was political parties, while today state legislatures are the focus.

Progressive reformers were able to accomplish broad sweeping reform of municipal, state, and national government institutions by relying on two strategies. First, they promoted governance policies to change the rules, procedures, and operation of representative governments. Second, they used ballot initiatives to shape the political agenda and as a catalyst for early adoption of new policy ideas. To accomplish their reform agenda, Progressive reformers introduced legislation in state legislatures and as ballot measures. Policies initiated

[29] John A. Allswang, *The Initiative and Referendum in California, 1898–1998* (Palo Alto, CA: Stanford University Press, 2000).

[30] Subject matter of initiatives coded by author. Raw data is from the Initiative and Referenda Institute, Washington, DC.

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in state legislatures often diffused across the states, becoming the subject of state ballot initiatives and vice versa.[31]

While the Progressives are commonly remembered for lobbying for the passage of direct democracy mechanisms at the state level, what is less well understood is that once these political institutions were in place, reformers relied on the initiative process to adopt much of their reform agenda. Progressive reformers' most important innovation may have been to use the initiative as a catalyst for political reform. According to David Schmidt, "In the initiative process the Progressives created a perpetual reform machine that not only continues to be a vehicle for political change, but is increasing in its usefulness to reformers more than three-quarters of a century after it first gained widespread acceptance."[32] A brief examination of historical Progressivism provides a better understanding of the social and economic context associated with the contemporary shift toward participatory democracy and citizen initiatives.

Institutional Dealignment during the Progressive and Contemporary Eras

During the late 1800s and early 1900s, America shifted from an agrarian society to an industrial economy. Historians widely consider the rise of the Populist and later Progressive movements to be a political response to rapid economic and social change. Progressive reformers were faced with two types of institutional dealignment: one social and one economic. Progressives desired to reform government institutions to prevent political corruption and create a safety net from the perils of the new industrial economy. But they were concerned with the growing political power of urban ethnic immigrants and the party machines and wanted to concentrate political power in the hands of the white middle and upper classes.[33] To achieve both goals, they used governance policy to change the rules and procedures of the political system.

The Industrial Revolution of the late nineteenth century penetrated all facets of American life; growing income inequality was a defining feature of this period. The economic advances were achieved at the cost of labor dislocations, loss of agrarian profits, concentration of economic power, robber barons, inequitable taxation, railroad monopolies, political corruption, labor strikes, land evictions, and crowded slums.[34] "Progressivism is a reform orientation that

[31] See Karen Mossberger, *The Diffusion of Innovations and the Spread of Enterprise Zones* (Washington, DC: Georgetown University Press, 2000) on policy diffusion and learning.

[32] David Schmidt, *Citizen Lawmakers: The Ballot Initiative Revolution* (Philadelphia: Temple University Press, 1989): 115.

[33] McDonagh, "Race, Class and Gender in the Progressive Era."

[34] Samuel Hayes, *The Response to Industrialism 1885–1914* (Chicago: University of Chicago Press, 1957); Samuel Hayes, "The Politics of Reform in Municipal Government in the Progressive Era," *Pacific Northwest Quarterly* 55 (Summer 1964): 157–169; Samuel Hays, "The Social Analysis of American Political History: 1880–1920," *Political Science Quarterly* 80 (Fall 1965): 373–394; Richard Hofstadter, *The Age of Reform: From Bryan to F.D.R.* (New York: Vintage Books, 1955); Richard Hofstadter, *The Progressive Movement, 1900–1915* (Englewood Cliffs: Prentice-Hall, 1963); Martin Shefter, "Regional

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seeks to implement the power of state authority and government institutions to solve social and economic inequalities viewed as the source of societal ills."[35] The aim of Progressive reformers was to create a countervailing force (big government) to an economic sector dominated by industrial corporations (big business). The centralized, hierarchical, administrative state was the institutional form of government capable of regulating an economy dominated by industrial corporations.[36] Progressive reformers established regulatory policies encompassing a wide range of factors of production, including labor, land, trade, capital, and taxation.[37] Perhaps the most important reform during this period was the adoption of a progressive income tax, expanding exponentially the financial resources, regulatory capabilities, and social services provided by the national government. To lessen the iron grip of railroads, mining, and oil industries over legislatures and politics, they created the administrative bureaucracy and merit system to insulate government from the influence of industry.[38]

America experienced historic rates of immigration during this period.[39] The new immigrants were poorer and less educated then their northern European predecessors and created job competition for the more established immigrant groups. Progressive reformers were concerned with the disproportionate representation of ethnic immigrants in urban political machines and resentful of how local political machines made use of the immigrant vote. The immigrant was the instrument of the urban political machine, which provided quick naturalization, jobs, social services, personal access to authority, and deference to ethnic pride. In return, it garnered votes, herding to the polls new citizens, who were grateful for services rendered and submissive to experienced leadership.[40] Progressive reforms such as the merit system, secret ballot, at-large elections, and complicated voter registration laws weakened political party machines by reducing patronage and resulted in a dramatic decline in immigrant voting. Thus, political participation of immigrants was hampered by "good government" legislation, which had the effect of disenfranchising urban immigrants.[41] Between 1903 and 1908, 130 state laws were passed that regulated party machines and business interests, all of which increasingly restricted the participation rates of urban immigrants.[42]

Receptivity to Reform: The Legacy of the Progressive Era," *Political Science Quarterly* 98 (Fall 1983): 459–483.

[35] McDonagh, "Race, Class and Gender in the Progressive Era," 147.

[36] Skowronek, *Building the Administrative State.*

[37] Morton Keller, *Regulating the New Society: Public Policy and Social Change in America, 1900–1933* (Cambridge, MA: Harvard University Press, 1994).

[38] Skowronek, *Building the Administrative State.*

[39] In 1890, for example, first generation newcomers made up an incredible four-fifths of New York City's population. See Schmidt, *Citizen Lawmakers.*

[40] Hofstadter, *The Age of Reform.*

[41] McDonagh, "Race, Class and Gender in the Progressive Era."

[42] Frances Fox Piven and Richard A. Cloward, *Why Americans Don't Vote* (New York: Pantheon, 1988).

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A New Era of Institutional Realignment?

Today, almost a century later, we are again at an historic junction as our economy changes to information technology in a global arena. Beginning in the late 1970s with the unveiling of the personal computer and in 1980 with twenty-four hour cable network news, America has experienced another dramatic transformation from an industrial economy to one based on computers, the Internet, and information technology. Popular literature suggests a new progressivism may be on the horizon.[43] Just as the institutional capacities of a government designed for the agrarian era failed to meet the demands of an industrial society, the institutional capacities of a government designed for the industrial era may be unable to meet the demands of a technology-based society.[44] Government institutions, especially state legislatures and Congress, have come under increasing attack as they struggle to address new problems arising under an information-age economy.[45] Traditional strategies used by the public sector to manage the private sector, such as state-local sales taxes and regulation, are no longer effective when commerce takes place over the Internet or when multinational corporations move production overseas.[46]

There is widespread and persistent distrust of representative government. In 1964, 76 percent of Americans said they thought they could trust the government in Washington to do what was right nearly always or most of the time. In 1997, only half as many, 38 percent, agreed, while 62 percent said they trusted the government only sometimes or never.[47] The lack of political trust is generally related to the perception that government is unable to solve problems, to spend money in an effective and efficient manner, or to represent the interests and policy preferences of average voters. It is also related to impatience with the overall responsiveness of elected officials. Only one in five Americans in 1997 thought that the decisions Congress made were the same as they or most people would make even as much as half of the time. Most of the time, the vast majority said that their representatives were not representing them.[48] Growing public distrust in government may be indicative of the dealignment of political institutions with economic and social conditions.

Economic Change: Technological Revolution

Like the Industrial Revolution, the technological revolution pervades all aspects of American life. The rise of information technology and a global econ-

[43] E. J. Dionne, *They Only Look Dead: Why Progressives Will Dominate the New Political Era* (New York: Simon and Schuster, 1996); Kevin Phillips, *Boiling Point: Democrats, Republicans and the Decline of Middle-Class Prosperity* (New York: Random House, 1993).

[44] Osborne and Gaebler, *Reinventing Government*; Peters, *The Future of Governing.*

[45] Rosenthal, *The Decline of Representative Democracy.*

[46] Susan Clarke and Gary Gaile, *The Work of Cities* (Minneapolis: University of Minnesota Press, 1998).

[47] Pew Research Center 1997, cited in Broder, *Democracy Derailed*, 229.

[48] Center on Policy Attitudes 1999, cited in Broder, *Democracy Derailed*, 227–228.

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omy has revolutionized the private and nonprofit sectors, fostering corporate mergers, billionaires, and dot.com companies, while electronic commerce has become the fastest growing sector of the economy. This rapid economic change has led to renewed dislocations, increasing income inequality, the creation of a digital divide, and stagnating wages for the lower and middle classes. It has also led to demands to update political institutions to new economic conditions.

In the late twentieth century, inflation and unemployment were low and the stock market and corporate profits were high, but the early years of the twenty-first century have been marked by a weak national economy. This period has also been distinguished by growing economic inequality between the lower/middle and upper income classes.[49] In 1997, the majority of American workers earned less money in real dollars per hour than comparable workers did twenty years ago; inflation-adjusted earnings of the median worker in 1997 were 3.1 percent lower than in 1989. At the same time, the typical married couple family worked 247 hours (over six weeks) more per year in 1996 than in 1989.[50] In the new economic order, individuals with a college education can prosper, while those without have faltered.

During the late twentieth century, rapid technological change led to a renewed concentration of wealth in America. Between 1962 and 1983, the share of total private net worth held by the top 1 percent of U.S. families barely changed. Yet, from 1983 to 1989, it surged from 31 percent to 37 percent, reaching heights unseen since 1929. The typical middle class family had nearly 3 percent less wealth in 1997 than in 1989, despite the stock market boom, because it is the richest 10 percent of households in the United States that have reaped 85.8 percent of the growth in the stock market in this period.[51]

The digital divide may further magnify inequities in income distribution. Previous studies have shown wide disparities in computer ownership and Internet access based on income and race/ethnicity, affecting workforce development, education, and political participation. Computer ownership and Internet usage have grown within all groups, but the low use of information technology among lower-income individuals and racial minorities has widened the disparity or digital divide.[52] Possible future political reforms, such as online voting and voter registration, may magnify existing disparities in political participation rates unless barriers for low-income citizens are addressed.[53]

[49] Lawrence Mishel, Jared Bernstein, and John Schmitt, *The State of Working America 1998–99* (Ithaca, NY: ILS Press, 1999).

[50] Ibid.

[51] Ibid.

[52] Karen Mossberger, Caroline J. Tolbert, and Mary Stansbury, *Beyond the Digital Divide* (Washington, DC: Georgetown University Press, 2003); Pippa Norris, *Digital Divide: Civic Engagement, Information Poverty, and the Internet Worldwide* (New York: Cambridge University Press, 2001). See also Richard Neu, Robert Anderson, and Tora Bikson, *E-mail Communication between Government and Citizens: Security, Policy Issues, and Next Steps* (Santa Monica, CA: Rand Corp, 1998).

[53] Mossberger, Tolbert, and Stansbury, *Beyond the Digital Divide*; Michael Alvarez and Jonathan Nagler, "The Likely Consequences of Internet Voting for Political Participation" (paper presented at Internet Voting and Democracy symposium, Loyola Law School, 26 October 2000).

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Social Change: Immigration from Mexico and Asia

The United States is among the most racially and ethnically diverse of the Western democracies, and growing demographic change is a defining feature of U.S. politics.[54] In 1980, 79 percent of the U.S. population was white (non-Hispanic), 12 percent black, 6.4 percent Latino, and 1.6 percent Asian. In less than twenty years, whites as a percentage of the population dropped to 71 percent, while the Latino population rose to over 11 percent. In 1998, blacks comprised roughly 13 percent of the population and Asians, 4 percent. The U.S. Census Bureau projects that by the year 2025, whites will account for only 61 percent of the U.S. population; Latinos, 18 percent; blacks, 14 percent; and Asians, almost 7 percent.

Our nation, and California in particular, has experienced rapid demographic change and historic rates of immigration since 1980 not seen since the turn of the twentieth century. The state of California alone gained 2.8 million residents through immigration between 1980 and 1994, not including illegal immigrants during this period, estimated to be an additional 1.4 million to 2 million people. Most of the legal and illegal immigrants arrived from Mexico and Asian countries. By 1994, nearly 24 percent of Californians were foreign-born, and 42 percent of the school-age population of California consisted of immigrants or the children of immigrants. Immigration has transformed California from a state where the vast majority were white to a multiethnic society consisting of sizable portions of whites, blacks, Asians, and Latinos.[55]

California is the first majority-minority state, that is, a state in which no racial or ethnic group represents over 50 percent of the population. In 2000, non-Hispanic whites represented only 49 percent of the state's population, as Latinos increased to 31 percent and Asians to 12 percent. Latinos will outnumber non-Hispanic whites in the early 2020s and could well become the outright majority in the 2040s. Projections by the U.S. Census Bureau indicate that by the year 2025, whites will comprise just 30 percent of the state's population.[56] California's racial make-up today mirrors the projected make-up of the whole country in the middle part of this century.

Scholars and policy makers alike have long recognized differential voter turnout rates by socioeconomic status and race/ethnicity in American politics; individuals with higher income, education, and occupational status are significantly more likely to vote.[57] States with high racial and ethnic diversity, such

[54] Hero, *Faces of Inequality.*

[55] Baldassare, *California in the New Millennium*, 3.

[56] Hans P. Johnson, *How Many Californians? A Review of Population Projections for the State*, California Counts: Population Trends and Profiles, vol. 1 (October 1999) San Francisco: Public Policy Institute of California.

[57] Angus Campbell, Philip Converse, Warren Miller, and Donald Stokes, *The American Voter* (Chicago: University of Chicago Press, 1960); Raymond Wolfinger and Stephen Rosenstone, *Who Votes?* (New Haven: Yale University Press, 1980); Piven and Cloward, *Why Americans Don't Vote.*

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as California, Florida, Texas, and New York are distinguished by a mismatch between the composition of the electorate and the demographics of the state's population. For example, in California non-Hispanic whites made up only 52 percent of the population in 1998, but accounted for about 75 percent of the voting electorate.[58]

Changing demographics are historically important in periods of political change. During the late nineteenth century, the influx of immigrants from southern and eastern Europe fueled sentiments of nativism and a voter backlash. Today the increased size and perceived political influence of racial and ethnic populations may have a similar impact. Recent scholarly and popular research suggests a new populism has arisen in California—largely concerned with the political influence and access of ethnic minorities to representative governments such as the state legislature and bureaucratic agencies.[59] State legislatures may be perceived as overly responsive to minority groups, just as the urban party machines were seen as overly responsive to the ethnic immigrants a hundred years ago. A clear manifestation of the new populism is the use of ballot initiatives to circumvent representative institutions, especially state legislatures, where blacks and Latinos have gained influence.

While governance policies, such as tax limitations, may not on the surface appear to affect racial and ethnic minorities, some have argued that these policies have emerged because of concerns that state governance policies have been "overly responsive" or overly generous to various minority groups.[60] Tax limitations and supermajority rules to pass tax increases reduce state welfare benefits that disproportionately aid racial minority groups,[61] and proposed Internet voting may decrease turnout rates among racial and ethnic minority groups.[62]

Examples of Contemporary Governance Policies

At the turn of the twenty-first century, reform of political institutions has once again lagged behind socioeconomic change. This lag has led to renewed at-

[58] Voter News Service Exit Polls, 1998.

[59] Bruce Cain, "Voting Rights and Democratic Theory: Toward a Color-Blind Society?" in Bernard Grofman and Chandler Davidson, eds., *Controversies in Minority Voting* (Washington, DC: Brookings Institution, 1992); Caroline J. Tolbert and Rodney E. Hero, "Dealing with Diversity: Racial/Ethnic Context and Social Policy Change," *Political Research Quarterly* 54 (Fall 2001): 571–604; Schrag, *California in the New Millenium.*

[60] Hero, *Faces of Inequality*, 114; Cain, "Voting Rights and Democratic Theory."

[61] Schrag, *California in the New Millenium.* The campaign to adopt legislative term limits in California gained momentum by advertising that it would oust long-term black Assembly Speaker Willie Brown, who had proposed a number of controversial policies including legislation calling for "educational equity", meaning that students and faculty at public schools and universities must reflect the diversity of the state. See Linda Chavez, *The Color Bind: California's Battle to End Affirmative Action* (Berkeley: University of California Press, 1988).

[62] Tolbert and Hero, "Dealing with Diversity."

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tempts to restructure public sector organizations. The states have led the way in passing laws to update election procedures. Some political analysts and leaders believe online voting and voter registration will be a reality in a number of states in the next decade. Absentee voting is encouraged in many states, with a quarter or more of the ballots being cast in advance of election day in some places. In 1988, Oregon voters eliminated neighborhood polling places, requiring state voters to cast ballots exclusively by mail in the 2000 primary and general elections.[63] Mail ballots may be a first step toward online voting. Arizona (a state with frequent use of direct democracy) has led the nation in using computerized voting systems, while California experimented with online voting in the 2000 presidential elections. In the first binding test of online voting, Arizona Democrats in 2000 elected national convention delegates by using Internet voting. Computer voting ballots provide a means of updating election systems for a new technology-based economy with improved accuracy and lower cost, thereby improving citizens' perceptions and trust in government. At the same time, such reforms may adversely affect turnout rates for the poor and racial minorities.[64]

Opinion polls show wide support for a range of other political reforms, from term limitations to a balanced budget amendment to the U.S. Constitution. Since 1990, when legislative limits were first adopted by initiatives in California, Colorado, and Oklahoma, term limits have been adopted in twenty-three states.[65] Term limits have only been adopted in one state, Louisiana, without the initiative process. A 1992 National Election Study poll found overwhelming support for term limits in virtually every segment of the population.[66] Thirteen states have constitutional provisions requiring a supermajority or a two-thirds vote of the legislature to raise all taxes. The most sweeping state campaign finance reforms in recent years are commonly referred to as "clean elections" that provide for public financing of political campaigns. In addition, twelve states have passed legislation mandating electronic filing of and access to campaign finance information for political candidates in upcoming elections. Very low contribution limits is another state innovation in campaign finance reform that has been adopted in six states. In 1994, voters in Missouri, Montana, and Oregon passed citizen initiatives that set limits as low as $100 on individual contributions to legislative candidates.[67] Sixteen states, including the four with blanket primaries, have completely open primaries. These election systems allow any person who is registered as an independent or with no party preference or is registered in a party that is not represented on the ballot (minor

[63] Jeffrey Karp and Susan Banducci, "Going Postal: How All-Mail Elections Influence Turnout," *Political Behavior* 22 (Fall 2000): 223–239.

[64] Mossberger, Tolbert, and Stansbury, *Beyond the Digital Divide*; Alvarez and Nagler, "The Likely Consequences of Internet Voting."

[65] Tolbert, "Changing the Rules for State Legislatures."

[66] Citrin, "Who's the Boss?" 275.

[67] Jean Drage, "Campaign Finance Reform," *National Conference of State Legislatures LegiBrief* (June/July 1999).

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party) to vote in the primary election of the major political parties. In states with the blanket primary, both major political parties and minor parties are presented on one slate or blanket ballot. Voters can pick and choose the candidates of their preference.

Understanding State Governance Policy Adoptions

Introduced by activists from the left and the right of the political spectrum, policies changing the institutional rules of the game are an ever-growing component of state political agendas. While there are many examples, this analysis examines the adoption of nine political reforms adopted across the states during the past two decades: legislative term limits; supermajority rules for tax increases; voter approval of tax increases; complete open primary; blanket or nonpartisan primary; very low campaign contribution limits; public financing of state legislative political campaigns; mandated electronic filing of campaign contributions; and exclusive use of mail voting ballots.[68] The raw data is from the National Conference of State Legislatures, Denver, and is current as of July 1999. An ordinal index of the number of state political reforms is used as the dependent variable in a multivariate regression model.[69] California has adopted six of the nine procedural policies examined here, for example, while Kentucky has adopted none.

Opinion polls show that public support for governance policies such as term limits and campaign finance reform is fairly constant across individual states, but there are significant variations in state provisions for direct democracy. Rather than measuring the presence of the initiative process, the classification scheme used here reflects important variations in usage of the process over time. Use of the initiative process reflects variations in the stringency in petition signature thresholds, geographical distribution requirements, and time limitations for circulating petitions.[70] In states such as California and Oregon, voters face many ballot initiatives each election. In others, such as Wyoming, the process is rarely used. Usage of direct democracy by state electorates is measured by the average number of statewide initiatives appearing on election ballots per year from 1970–1992.[71] If direct democracy shapes policy adoptions, we would expect state usage of ballot initiatives to account for some variation in passage of governance policy.

A number of other explanatory variables that may also drive governance policy adoptions are included in the analysis. Many argue that race/ethnicity

[68] In an effort to understand what factors drive the use of governance policy, state laws that have been invalidated by the courts are included in the analysis, including term limit provisions in three states, blanket primaries, and some of the campaign finance reform legislation.

[69] Raw data is available from the author.

[70] Caroline J. Tolbert, Daniel Lowestein, and Todd Donovan, "Election Law and Rules for Using Initiatives" in Bowler, Donovan, and Tolbert, eds., *Citizens as Legislators.*

[71] Ibid.

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has played a central role in both national and subnational politics in the United States and that variation in state public policy reflects this diversity.[72] Given the hypotheses laid out in this article, we would expect states experiencing the greatest demographic change in the last two decades to be more likely to adopt governance policies. Change in state racial and ethnic diversity is measured by indices developed by Rodney Hero and myself with 1980 and 1990 census data on the percent of Latinos, African Americans, whites, and Asian Americans.[73]

Economic change is measured by the change in state income inequality (Gini coefficient values) for each state between 1979 and 1989.[74] We would expect states with greater income inequality to be more likely to adopt governance policy. State socioeconomic conditions are also measured with independent variables for urbanization and income.[75] States with less competitive elections should be more likely to adopt governance policies as a means to make government more responsive to its citizens. Party competitiveness is measured by an index of district-level electoral competition.[76] Public opinion is an important factor in understanding variations in policy outcomes across the states. Average (conservative) policy opinions (ideology) of state electorates are from Robert Erikson, Gerald Wright, and John McIver.[77] If internal features of state legislatures are important, support for many governance policies should be strongest in states with more professional legislatures.[78] State legislative professionalism is measured by an index created by Peverill Squire that uses the Congress as a baseline against which to measure the salary, staff, and time-in-session of all fifty state legislatures.[79]

Adoption of governance policies may also be a function of a state's political history and development. States with a strong historical Progressive party tradi-

[72] Hero, *Faces of Inequality*; Vladimir O. Key, *Southern Politics—In State and Nation* (Knoxville: University of Tennessee Press, 1949).

[73] The index is a measure of a state's racial/ethnic population. The index was computed with the following formula: Minority diversity = $1 - [(\text{proportion Latino})^2 + (\text{proportion black})^2 + (\text{proportion white})^2 + (\text{proportion Asian})^2]$. See Rodney E. Hero and Caroline J. Tolbert, "A Racial/Ethnic Diversity Interpretation of Politics and Policy in the States of the U.S.," *American Journal of Political Science* 40 (Fall 1996): 851–871.

[74] Laura Langer, "Measuring Income Distribution across Space and Time in the American States," *Social Science Quarterly* 80 (Winter 1999): 55–67.

[75] Per capita income and the percentage of population living in metropolitan areas in 1990 is from the *Statistical Abstracts of the United States.*

[76] Thomas Holbrook and Emily Van Dunk, "Electoral Competition in the American States," *American Political Science Review* 4 (Winter 1993): 955–962.

[77] The measure is based on the result of 122 CBS/*New York Times* telephone polls for the years 1976–1988, which included identical questions about respondents' self-reported ideology. Data for forty-seven states are available for the ideology measure. See Robert Erikson, Gerald Wright, and John McIver, *Statehouse Democracy* (New York: Cambridge University Press, 1993).

[78] Jeffrey Mondak, "Elections as Filters: Term Limits and the Composition of the U.S. House," *Political Research Quarterly* 48 (Summer 1995): 701–727.

[79] Peverill Squire, "The Theory of Legislative Institutionalization and the California Assembly," *Journal of Politics* 54 (Summer 1992): 1026–1054.

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tion, weak political parties, and low ethnic diversity, especially those in the West and Midwest, were more likely to adopt direct democracy mechanisms in the first place.[80] States political development is measured with a dummy variable for a "moralistic" political culture, which most closely approximates a tradition of Progressive party influence.[81]

Findings from the Analysis of Fifty-State Data

The impact of initiative use on governance policy adoptions is measured by the number of governance policies adopted in each state. The statistical analysis indicates that frequent use of direct democracy is a strong and statistically significant predictor of governance policy adoptions, even after controlling for other factors. States with more initiatives on the ballot are also more likely to adopt governance policies. There is evidence that states with the largest demographic change in terms of racial/ethnic diversity are also more likely to adopt a range of political reforms. Change in income inequality, however, is not related to policy adoptions, but this may reflect a rough empirical measure rather than the lack of a relationship. Many of the control variables do not have a statistically significant impact. States with a "moralistic" political culture or more professional legislatures are also not more likely to adopt governance policies, raising doubts whether these policies target more professional legislatures.[82] States with lower electoral competition, however, are more likely to adopt governance policies, suggesting that governance policies aim to make political institutions more responsive.

The statistical model employed provides a framework to examine specific policy scenarios.[83] Two scenarios are examined: the first for states with average racial diversity and the second for states with high racial diversity. The projections based on the data analysis reveal a clear pattern of policy adoptions relative to state use of direct democracy (Figure 2). States without the initiative process and average racial diversity are predicted to adopt one of the nine governance policies studied here. Noninitiative states, thus, have a small probability of adopting many governance policies. The estimates suggest that moderate

[80] Schmidt, *Citizen Lawmakers*; Price, "The Initiative."

[81] Daniel Elazar, *American Federalism: A View from the States*, 3d ed. (New York: Harper and Row, 1966).

[82] Rosenthal, *The Decline of Representative Democracy.*

[83] To facilitate interpretation of the statistical findings, the regression coefficients from a Poisson regression model were converted to expected values (probabilities) of state policy adoptions by using a simulation procedure, Clarify software. The simulations provide an estimate of the number of governance policies that are likely to be adopted in states with varying reliance on ballot initiatives, analysis that would not be possible from an examination of the regression coefficients alone. All independent variables are held constant by setting their values to the mean except frequency of state initiative use (for the simulations, states are assumed to have a moralistic political culture). See Gary King, Michael Tomz, and Jason Wittenberg, "Making the Most of Statistical Analyses: Improving Interpretation and Presentation," *American Journal of Political Science* 44 (Spring 2000): 347–361.

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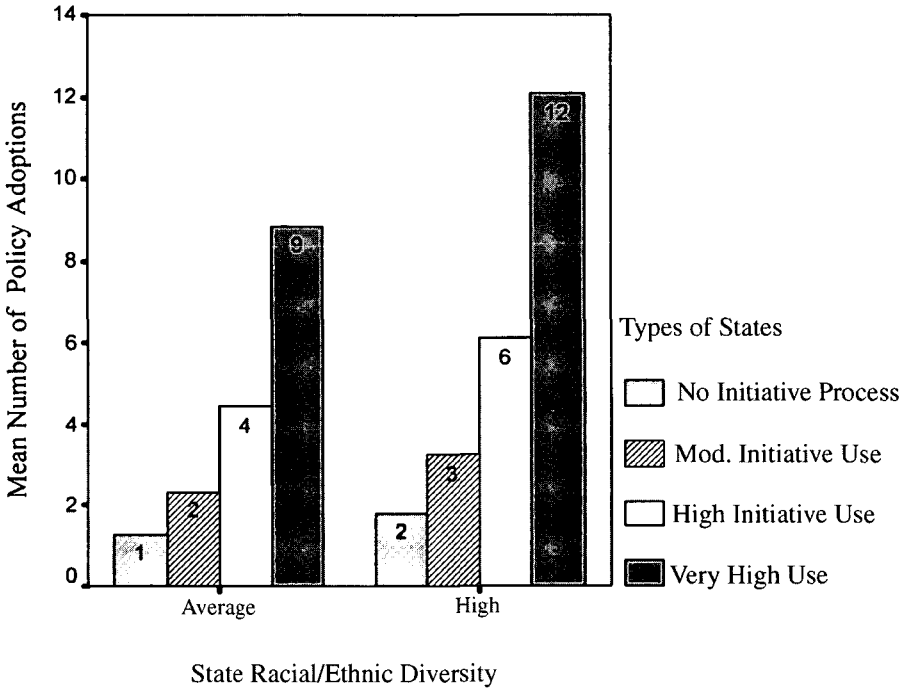
FIGURE 2
Expected Number of State Governance Policies



Note: Expected number (probability) of state governance policy adoptions are based on a multiple regression model available from the author.

use of the initiative process is associated with a dramatic increase in the use of governance policy, recognizing that policies may be adopted via ballot initiatives, legislative referenda, elected officials, or state legislature under the threat of petition drives.[84] States with moderate use of direct democracy (average two initiatives per election cycle) and average racial diversity are expected to adopt two governance policies; states with high racial diversity, three governance policies. States with high use of ballot initiatives (average four per election cycle) and average racial diversity are predicted to adopt four governance policies; states with high racial diversity are expected to adopt six of the policies. States with very frequent use of ballot initiatives such as California and Oregon, averaging six per election cycle, are expected to adopt between nine and twelve governance policies, depending on the racial composition of the state.

In sum, moderate to high usage of ballot initiatives is associated with sharp increases in the number of governance policies a state will adopt. States with participatory mechanisms for policy making, in addition to the legislative process, are significantly more likely to adopt governance policy than are states

[84] Gerber, *The Populist Paradox.*

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with very low or no usage of the process. However, even states with low usage of the initiative process are more likely to adopt governance policies than are states without direct democracy procedures. This does not preclude the fact that states with and without the initiative process may adopt governance policy via legislative activity or referenda referred by the legislature.

Cycles of Democracy

Researchers have long recognized cyclical patterns in partisan realignments as a way in which the political system adapts to change over time. Although relatively understudied compared to other electoral institutions, this research suggests that direct democracy at the state level may function as an adaptive mechanism, realigning institutions of representative government with new social and economic conditions in a continuing cycle of democracy. Unlike partisan realignment, institutional realignment via direct democracy may allow for political system change at the state level. A two-stage model is proposed in which rapid demographic and economic change leads to frustration with government that is perceived as outdated and to the increased salience of state ballot initiatives and referenda for policy decisions. Historical analysis suggests that the increased use of direct democracy during the Progressive era coincides with economic transitions and periods of increased immigration. Use of direct democracy by state electorates is in turn used to change, and in some cases modernize, the political system. In the wake of the 2000 presidential election, updating the U.S. election system for the twenty-first century is of primary importance. Statistical analysis suggests that states with frequent use of ballot initiatives are more likely to adopt the nine contemporary political reforms described earlier.

The research suggests that institutional change is not always a response to crisis (for example, war), but the slow building up of pressure when government institutions are out of sync with socioeconomic conditions. One measure of institutional dealignment is growing public disapproval of elected officials, coinciding with rapid economic and social (demographic) change. When federalism is decentralized with state legislation shaping federal policy, state ballot initiatives are more salient. Thus, tracking citizen usage of the initiative process, which circumvents elected officials and representative democracy, may be an important indicator of political system change. A final indicator may be the importance of governance policy relative to substantive policy adoptions.

Progressive reformers at the turn of the twentieth century were able to accomplish such broad sweeping change of municipal, local, state, and national political institutions by promoting governance policies that changed public sector rules and procedures and by using the initiative process for early adoption of many new policy ideas. Are provisions for direct democracy once again serving as a catalyst for political reform? The statistical analyses in this article provide support for this hypothesis. States with frequent use of ballot initiatives

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are considerably more likely to adopt governance policies, as are those experiencing the greatest demographic change.

The targets of institutional realignment during the Progressive era were the political parties, while today blame for an unresponsive government is often placed on state legislatures and Congress.[85] Just as political parties were seen as overly responsive to ethnic/immigrant groups at the turn of the twentieth century,[86] state legislatures may be seen as overly responsive to racial and ethnic minorities at the turn of the twenty-first century.[87] During the Progressive era, white middle and upper class voters used governance policy and direct legislation to change access and participation in government. Governance policy was a tool to consolidate political power in the hands of the white middle class; this power was perceived as slipping away to the new ethnic immigrants. Analysis suggests a similar phenomena may be occurring today.

At the turn of the twentieth century, Progressive reformers also used governance policy to adapt political institutions to the demands of an industrial economy by creating the administrative state. One hundred years later, "hierarchy" is the evil most directly addressed by advocates of more participatory models of government. Focusing on public management trends worldwide, B. Guy Peters notes that twenty-first century governments are more participatory; hierarchical, rule-based organization in the public sector is seen as a severe impediment to effective management and governance.[88] Participatory models call for "flatter" government organizations with fewer tiers between the top and the bottom that encourage employee and citizen participation in decision making. Governments in the future will likely continue to rely on participatory mechanisms such as electronic town meetings and voter referenda to increase the dialogue between government leaders and citizens.

What type of governance policy is necessary to update and modernize representative democracy for the technological revolution? Historical Progressives advocated the direct primary and presidential primary, while today the open primary, a proportional election system, or instant run-off system may encourage minor and third party candidates and increase voter turnout. Historical Progressives promoted the progressive income tax, while today a value added tax may be the only viable means of taxing commerce on the Internet. Historical Progressives advocated the secret, long, and nonpartisan ballot, while today computerized ballots, digitized signatures, mail and internet ballots, and same-day voter registration may be necessary to increase voter turnout, the accuracy of elections, and citizen trust. The Progressives advocated the direct election of U.S. senators to increase the role of citizens in selecting members of Congress, while today publicly financed campaigns, free airtime for ballot-qualified candidates, and contribution limits are proposed. Progressive

[85] Rosenthal, *The Decline of Representative Democracy.*

[86] McDonagh, "Race, Class and Gender in the Progressive Era."

[87] Cain, "Voting Rights and Democratic Theory"; Hero, *Faces of Inequality*; Schrag, *Paradise Lost.*

[88] Peters, *The Future of Governing*, 46–47.

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reforms such as the direct election of U.S. senators and direct primaries weakened political parties, while today we desire to strengthen the party system, even via proportional electoral systems or cumulative voting.[89] Just as Progressive reforms such as at-large elections reduced immigrant voter turnout rates, contemporary policies such as internet voting may further magnify existing disparities in political participation rates by race/ethnicity and socioeconomic status.

This research also has important implications for assessing whether the increased use of ballot initiatives serves to undermine or strengthen representative democracy. Some scholars argue that referendums are changing the practice of liberal democracies[90] and making government more participatory,[91] while others suggest that ballot initiatives are supplanting representative democracy,[92] tyrannizing minority groups,[93] and weakening legislative institutions.[94] Given the cyclical pattern presented in this research, frequent usage of direct democracy in the late twentieth and early twenty-first centuries is understood not as a permanent shift to direct democracy, but as a temporary phenomenon. If this interpretation of political history is correct, as institutions of representative democracy (state legislatures, bureaucratic agencies, and election systems) modernize and adapt to changing economic and social conditions, it is expected that usage of direct democracy will wane considerably in the next two decades. Rather than a safety valve, the initiative process may be an adaptive mechanism for institutional realignment of representative democracy.

[89] Todd Donovan, Tracey Sulkin, Shaun Bowler, and David Brockington, "Contested Local Elections and Active Campaigns: The Effects of Cumulative Voting and Districting," *Legislative Studies Quarterly* 23 (Winter 1998): 152–153.

[90] Matthew Mendelsohn and Andrew Parkin, eds., *Referendum Democracy: Citizens, Elites, and Deliberation in Referendum Campaigns* (New York: Palgrave, 2001).

[91] Peters, *The Future of Governing.*

[92] Broder, *Democracy Derailed.*

[93] Schrag, *Paradise Lost.*

[94] Rosenthal, *The Decline of Representative Democracy.*

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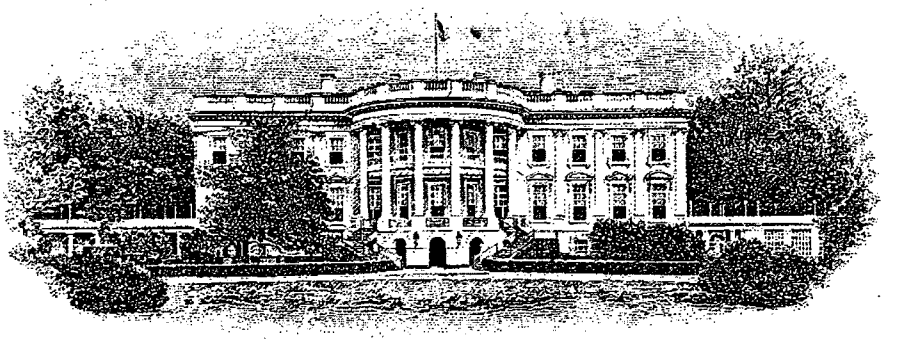

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Is the Body Politic Dying? A Review Essay

HUGH HECLO

A little over a century ago, historian Charles Francis Adams observed that recent elections had been "conducted on a level distinctly below the intelligence of the constituency; the participants in the debate have not been equal to the occasion offered them. Evidence of this is found in the absence of response."[1] The lack of response Adams had in mind was the failure of any campaign speech in 1900 to, as he put it, impress itself on the public memory. Today, the public's lack of response goes deeper, much deeper. The books under review explore three strata of the contemporary nonresponse among American citizens.[2]

Martin Wattenberg's slim volume provides a useful overview of the public's lack of response in terms of voting. Making good use of comparative data, the author begins by showing that declining voter turnout is a worldwide trend among the established democracies, notably since the end of the 1970s. This appears to be the result of a generalized decline in political parties' ability to mobilize voters. However, the turnout depressing dealignment of both old and new parties does not let Americans off the hook, since the United States (together with Switzerland) consistently ranks at the bottom of international turnout rankings. To jump ahead to the book's conclusion, one finds the Swiss pro-

[1] Charles Francis Adams, Presidential Address to the American Historical Association, 27 December 1901.

[2] Matthew A. Crenson and Benjamin Ginsberg, *Downsizing Democracy: How America Sidelined its Citizens and Privatized its Public* (Baltimore: Johns Hopkins University Press, 2002); Thomas E. Patterson, *The Vanishing Voter: Public Involvement in an Age of Uncertainty* (New York: Alfred A. Knopf, 2002); Martin P. Wattenberg, *Where Have all the Voters Gone?* (Cambridge, MA: Harvard University Press, 2002).

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viding clues to the explanation for where all the voters have gone. Going beyond the familiar criticism of the registration process, Wattenberg argues that it is the very complex, decentralized, and overloaded ballot choices presented in American elections that discourage potential voters. Far from being user-friendly, the voting experience is said to resemble taking an SAT test, presumably a dark and traumatic memory for most adult Americans.

In *The Vanishing Voter*, Thomas Patterson digs deeper into Americans' involvement in the 2000 election process, before they decided whether to turn up at the polling place on Election Day. Ninety-nine weekly surveys were conducted from November 1999 through January 2001. Almost 98,000 Americans provided information about their attentiveness to the campaign, reactions to weekly political events, and knowledge about candidates' positions. In this case, Patterson finds the whole election process itself falls well short of being user-friendly. The seemingly interminable campaign season bores citizens with meaningless events and taxes their attention span. The stop-and-go rhythm of primaries and conventions and the alternating stretches of campaign hype and quiescence leave onlookers disoriented. Induced by the winner-take-all aspect of the electoral vote system, an artificial division of public audiences into battleground and nonbattleground states distorts opportunities for citizen attention and involvement. The result is not a pretty picture. Patterson surmises that Americans' awareness of issues in the 2000 presidential election may have been the lowest in modern times, and after all those months and thousands of interviews his anger seems to boil over: "What could be said of an election process that is easily the world's most time consuming, cumbersome, and expensive? What words would apply to a system that saddles citizens with unnecessary burdens, teases them into activity before brushing them aside, and arbitrarily excludes many of them—sometimes, whole states—from having a meaningful voice in its outcomes?" (p. 184).

Both books address a number of common themes in an understandable manner. For example, one learns that some decline in voter turnout is traceable to demographic factors (especially more immigration in recent decades), hence the need to consider turnout in relation to the eligible voting population as well as voting-age population. Both authors, however, show that the vanishing voter is a real phenomenon and something about which to worry. Wattenberg gives special attention to the political disengagement of American youth since gaining the franchise in 1972, despite the generally rising levels of education that should increase voting. Patterson lays greater emphasis on the shortcomings of the news media and, unlike Wattenberg, also sees a long-term depressing effect on participation arising from negative campaigning. However, both authors underscore the unrepresentative bias by education, age, and class that has occurred through nonvoting in recent years. As Wattenberg illustrates in analyzing the 1994 congressional race, elections with lower turnout are likely to produce especially unrepresentative outcomes. While both authors endorse the idea of making Election Day a national holiday, Patterson proposes going much

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further to redesign the presidential electoral system. Among other things, he would shorten the nomination process with a streamlined sequence of state primaries and national conventions, standardize twenty-five hours of prime-time election coverage by the broadcast networks, adopt Election Day registration, and abolish the electoral college. In the end, both books hold out the promise of reappearing voters who will respond when lured by an electoral process that is more "inviting . . . gratifying . . . and enjoyable" (Patterson, pp. 184–5), or in Wattenberg's favored term, "more user friendly" (p. 163).

In *Downsizing Democracy*, Matthew Crenson and Benjamin Ginsberg go deeper. The first two books presuppose a public that has been invited into a dysfunctional electoral process. Crenson and Ginsberg turn all of this on its head. They portray a citizenry that has been systematically uninvited to democracy's party, with nonvoting an inevitable and rather incidental byproduct.

Downsizing Democracy has the marks of a book that will be remembered. It applies a master thesis to many different facets of American political life, inviting the reader to see a vast array of previously familiar material as if for the first time and as a whole. In the authors' view, we have come to the end of a centuries-long epoch during which government and political elites needed publicly engaged citizens. For some time now, we have been entering a new political world in which citizens no longer jointly inhabit a public sphere. Instead, collective mobilization has given way to "personal democracy" (p. 14). Here ordinary citizens deal with government merely as individuals, and elites can seek their policy ends without mobilizing popular constituencies. New techniques of governing have disaggregated popular democracy and transformed citizenship so that it no longer constitutes a public.

In other words, Crenson and Ginsberg are interested less in the level of political participation than in the morphology of participation. As they put it, "Americans continue to participate in politics (at reduced levels and with diminished influence), but they do so increasingly on their own. America is becoming a nation of emphatically private citizens—customers and clients who find it difficult to express coherent, common interests through collective political action. . . . Proper citizens have a collective identity. That is precisely what has been lost in the era of personal democracy" (p. 234).

To make its case, the book ranges across a host of topics that American government textbooks normally cover in a much more conventional manner. Looking first at the institutions of national government, Crenson and Ginsberg tell a story of state-building that has progressively displaced the citizen's role in administration, public finance, and military service. The war on terrorism is only the latest illustration of the government's ability to fight wars, raise funds, and administer programs without substantial reliance on the active collective engagement of millions of ordinary citizens. Today's leaders do not often need to call on citizens, and they ask little when they do. President George W. Bush's appeal to fight terrorism by shopping was emblematic, not aberrational.

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Turning to political parties, the authors find that these bodies have not so much declined as changed their character and focus. This is because political elites have found ways to achieve their policy goals without mobilizing ordinary citizens. Parties now do battle and live off the patronage from institutional entrenchments—the Democrats largely in the apparatus associated with the welfare state and the Republicans in the counterpart apparatus of agencies, groups, grants, contracts, think tanks, and media ties associated with the national security state. These contending political elites fight, not by mobilizing the public, but by mobilizing revelations, investigations, litigation, administrative processes, institutions, and targeted niche voters. Meanwhile, political professionals use opinion polls and other technologies to redefine citizens into the statistical fodder of virtual representation. In this view, the most important explanation for the vanishing voter is simple: party elites and their institutional allies can often get what they want from government without stirring up a public composed of common citizens. That the 2000 presidential election was eventually settled without large numbers of Americans taking to the streets, the authors see as a sign of civic sickness, not health.

Downsizing Democracy describes comparable developments across the political landscape. Interest groups are now in a governing environment where they are more likely to get what they want though courts, bureaucracies, and targeted marketing of their advocacy, rather than through mobilizing members. Social movements find that their very success leads to a logic of citizen demobilization. Success produces the laws that create opportunities to advance the movement through legislating and administering via courts and bureaucracies. Looking closely at the civil rights, environmental, and consumer movements, the authors find that organizing a real membership with citizens on the move takes backseat to encouraging individuals to hire organizations to be active on their behalf. Look where you will and the story repeats itself. Devolution to bring government closer to the people? It has the effect of dissolving national purposes around which citizens can mobilize and entrenches power in local elites. Vouchers? Citizens are turned into isolated shoppers rather than citizens who can combine to improve their public institutions. Working for religious and other nonprofit community activities? Independent causes are turned into government collaborations, and citizens are transformed into customers or volunteers. More open public access to bureaucratic processes? Political elites use the access and are absolved from the hard work of creating and maintaining popular followings. We may be sure that the authors of *Downsizing Democracy* would see Patterson's and Wattenberg's proposed user-friendly electoral process as one more sign of public citizens being turned into private customers who need to have junk food their way.

It is good to be wary of accounts where absolutely everything that has been happening in the world always points in one direction. Still, authors have a right to prosecute their thesis, and Matthew Crenson and Benjamin Ginsberg do so with admirable insight and persuasiveness. They help explain paradoxes that

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the first two books can only gloss over in puzzlement. For example, Patterson makes the dubious observation that "party decline was inevitable when the struggle over competing visions of the nation waned" (p. 47). Crenson and Ginsberg seem closer to the mark in showing how today's more ideologically partisan parties can coexist with lower levels of voter involvement. Or again, Wattenberg does well in pointing out that while generally higher levels of education in the latter twentieth century should have produced higher turnout, parties are doing a poorer job of mobilizing the less educated, and the more educated are better able to cope with the demands of long, complex ballots. Crenson and Ginsberg cut deeper when they argue that modern education equips Americans to get what they want on their own without hitching their interests to popular coalitions. Hence, it is not surprising that today even liberal party factions, interest groups, and social movements focus on goals tied to the aims of their upper-middle-class leadership—the causes of the comfortable that essentially neglect working-class Americans. This in turn allows conservatives to escape any serious need to countermobilize for popular support and to blatantly advance policies favoring the affluent. In a brilliant reprise of the latter twentieth-century's pursuit of nonhierarchical policy techniques (taking off from Robert Dahl and Charles Lindblom's *Politics, Economics, and Welfare*), the penultimate chapter lays out the path America has been traveling from the public purposes of citizens to the needs of customers and clients.

There is a near tragic quality to Crenson and Ginsberg's portrayal of personal democracy. It is not the result of elite conspiracies against the people or other evil intentions. What has occurred has often been done with the aim of enhancing popular democracy, citizens' rights, and institutional responsiveness. As it grew in the twentieth century, the American state provided ever-greater access to the political process for individuals who were previously excluded. However, it also reduced leaders' needs to build popular followings and mobilize citizens. The development of the modern American state and its associate policy politics has made government, politicians, and interests more able to dispense with active citizen support. Vanishing voters are merely epiphenomenona associated with vanishing citizenship. In the end, the contraction of citizenship is not about citizens neglecting their responsibilities. It is about leaders having less use for citizens than they once did.

A concluding chapter of a mere nine pages suggests the rather unhistorical fatalism that overtakes *Downsizing Democracy*. That is an easy thing to happen when one reads everything in the political record as pointing in only one direction. In the authors' concluding view, the future holds roughly two possibilities. One is the prospect for more of the same, where elites compete and government operates with little vital dependence upon the people they supposedly represent. Their more hopeful scenario is for institutional gridlock and breakdown. In this case, conflict among multiple Big Brothers will so cripple public institutions that citizens no longer receive the services they consider essential. In effect, the caretakers will face a feeding crisis at the zoo. Then popular lead-

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ers may arise to mobilize the backlash of angry citizens. The authors seem remarkably unconcerned that this hopeful alternative is, of course, also the ancient script for the breakdown of democracy into anarchy and demagogic tyranny.

Downsizing Democracy is a book that has important things to say about systemic changes in politics and the American state. Its authors are simply being realistic when they point out that even well-intentioned elites have no interest in changing a game in which they maintain privileged access to power. But of course self-government is more than a game. The ills of personal democracy run deep. They are not something to be addressed by tinkering with Election Day holidays or streamlined schedules for presidential primaries. By comparison, questions about *The Vanishing Voter* and *Where Have All the Voters Gone?* seem small, if not clinically naïve. For Crenson and Ginsberg, the political body may look alive, but it is only parasites moving in the corpse.

A more balanced historical judgment would indicate that the autopsy is premature. If political experience is changing the meaning of democracy, it is only one of many times that this has happened during the past two centuries. Democracy has been an idea on the move because, since the late eighteenth century, there has been ongoing political experience that could mold and remold democracy's previously abstract philosophical claims. As this book review is being finished, several million people in the United States and millions more around the world are in the streets protesting an American-led preemptive war against Iraq. Personal democracy is not the whole story, nor is it the end of the story. As Charles Francis Adams might have put it, social scientists as well as politicians can easily underestimate the intelligence of democracy.

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Book Reviews

Stealth Democracy: Americans' Beliefs about How Government Should Work *by John R. Hibbing and Elizabeth Theiss-Morse. New York, Cambridge University Press, 2002. 284 pp. Cloth, $60.00; paper, $22.00.*

This provocative book challenges the political analysts, scholars, and critics who have argued that Americans' alienation and ill feelings toward politics will be remedied by increasing their participation in politics. According to John R. Hibbing and Elizabeth Theiss-Morse, this problem has little to do with the public's lack of participation in politics, but rather with the selfish interests of politicians and their main organized group or other elite backers who distract them from attending to the larger public's interests. The public finds political participation unappealing and would rather have the nation's needs and wants served with limited citizen involvement by leaders who make effective decisions for the public good. So strong are these feelings that Hibbing and Theiss-Morse find compelling circumstantial evidence, based on modest survey data and focus group findings, that close to half the public report that they would prefer that the nation's decisions and actions be guided by the unobtrusive hand of *unelected* experts and business leaders instead of by politicians or the populus more directly. The public would prefer "stealth democracy": decisions and policies that serve the good of the nation with essentially invisible or nonexistent input from its citizens.

These empirical findings and conclusions both challenge and provide an important corrective to the positions of those who argue that the solution to Americans' political malaise is the expansion of opportunities for the public to participate directly in political debate and decision making—through town hall meetings, juries, and forums (such as those involving the consensus style results of Navaho democracy)—or the enhancement of its "social capital" and communitarian political voice through involvement in voluntary groups, policy juries, and deliberative opinion polls, as argued by Robert Putnam, Amitai Etzioni, and James Fishkin. Based on their survey and focus group results and their review of the findings and conclusions of research on town hall meetings and citizens' perceptions, attitudes, and actual experiences in political participation, the authors' research shows that the public prefers to avoid political interaction and conflict, *not* engage it. People want outlets for participation in order to keep politicians and government policies in line, and they support having direct ballot initiatives and referenda, but they would rather not be involved in any political fuss.

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Stealth Democracy provides a down-to-earth analysis of current discontent with government and politics that joins rational choice and social psychologically based theories of social and political behavior. Economic man would prefer to "free ride" and not participate in politics if there are any costs; the nature of conflict and the sociology and social psychology of dealing with that conflict raise the costs of participation without any increase in benefits. The idea of stealth democracy that serves the public's interest rather than private or politicians' interests also implies that *all* of the public benefits are approximately equal. In contrast, any solutions that would increase group-based or other forms of participation are unlikely to improve the public's attitude toward government and politics and could well have their own upper status or other biases.

Contrary to what cursory readers and critics may think, stealth democracy through government by experts and business leaders is not something that the authors expect to occur. It is the end result of an engaging thought experiment that ultimately takes the book back to asking how we might learn to live with the nation's representative and essentially majoritarian government, in which the public cannot fully distinguish self-interested elites from objective elites. How do we learn to live with it? The authors point toward educating and teaching the citizenry as early on in life as possible that people have diverse interests and that we, individually and as a nation, have to develop thicker skins, get used to conflicts that arise, and appreciate that we have political processes to deal with them. These processes are messy and at times seem like the worst possible—except for all the others. The book is vague on how this kind of civic education would work, leaving readers to look forward to the authors following up on this in their next work.

Stealth Democracy considers and acknowledges the possible usefulness of political reforms to do something about corruption and the role of money in politics through campaign reform that might mitigate the partisan polarization and conflict that antagonize the public. One possibility that the authors of the book do not consider is the way in which more extensive efforts at political mobilization by political parties or by public-spirited groups might conceivably change public attitudes toward participation. Another is what Lawrence Jacobs and this reviewer propose in the conclusion of *Politicians Don't Pander: Political Manipulation and the Loss of Democratic Responsiveness* through what might be called "transparent democracy": Opinion poll results would be reported and debated in a way consistent with what George Gallup originally had in mind, forcing political leaders and others to directly and transparently engage public opinion in real time. In this way, the public could see how politicians and policy makers are addressing its concerns—not requiring that public opinion be followed, but forcing leaders to explain their disagreements with the citizenry. The public would see itself represented—granted passively, but this may be preferable to the active participation that the public, in *Stealth Democracy*, apparently abhors—and this representation would not have the biases that occur through actual political activity. This transparency might lead to changes in the behavior

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of elites and the messiness and conflict in politics. Proposals for new efforts at political mobilization and for more transparent democracy are not necessarily incompatible with Hibbings and Theiss-Morse's conclusions and recommendations. While they too may play out in ways that people will not like, they may contribute to a real-world education about democratic government that might alter the nature of democratic politics itself.

ROBERT SHAPIRO
Columbia University

The End of the American Era: U.S. Foreign Policy and the Geopolitics of the Twenty-first Century *by Charles A. Kupchan. New York, Alfred A. Knopf, 2002. 368 pp. $27.95.*

During a moment when Americans brag, and others worry, about another American Century in which U.S. unilateralism will have its way, Charles A. Kupchan vigorously and with impressive scholarship disagrees. He throws not a dose, but 368 pages of well-crafted prose on the idea of a lengthy *pax Americana*.

A former member of the first Clinton administration's National Security Council who now teaches at Georgetown University, Kupchan believes that two unstoppable forces dictate that "America's unipolar moment is unlikely to last the decade" (p. 62). One force is an inevitable diffusion of power—in this case a rising, united Europe. China, he believes, will later—perhaps much later—add to that multipolarity in world power. The second more interesting and persuasive force that will help end U.S. "hyperpowerdom" (as some French prefer to call it) is the American people. Kupchan emphasizes that, not only are they historically ill-prepared to support such global power and the sacrifices it will entail, but also that America's rush into the digital age—a new era that is creating social alienation, policy polarization, and political disinterest—will lead Americans to be increasingly less involved in world affairs.

Conventional wisdom would respond that the September 11 attacks have dramatically reversed Americans' disinterest in foreign affairs and, for one of the few times in the nation's history, created a strong consensus on which U.S. officials can confidently base policies. Kupchan systematically disagrees. A policy fueled mostly by anti-terrorism, he argues, is a policy without any overarching strategy (such as containment was the strategy of 1947 to 1991). It will result largely in a unilateral lashing out in many directions. He attacks international relations experts for their abstractions, jargon, and mathematical modeling that steadily grow more distant from the real world; instead, these analysts should be developing new, workable forms of realist thought. Kupchan's fears are echoed by thoughtful Bush administration officials who wonder how they are supposed to plan, given the absence of the usual realist landmarks (especially the lack of a balance of power.)

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A major strength of this account is the use of historical episodes to throw light on current problems. Thus, the "profound revolution" (p. 125) of nineteenth-century Euoprean politics, especially the rise of Germany, is outlined to show the lessons about cooperation that Europeans learned and are now putting to good use. Modern America resembles the late Roman Empire as its people start "to tire of the burdens of hegemony," while the new European power center begins to appear "like Byzantium then" (p.153). A lengthy discussion of the 1780s American founders introduces a discussion of contemporary U.S. politics and society. Especially notable is a final section in which the author traces over the centuries the changes in the dominant economy (nomadic, agrarian, industrial, digital) and their decisive effects on political structures. The analysis does not always work. For example, contrary to the author's generalizations, the industrial era in the United States did not precede but followed the creation of republican democratic institutions. But this correction only confirms Kupchan's larger point that Americans seem ill-equipped to deal with those whose historical development differed fundamentally from their own. This is a provocative, ambitious, and historically informed analysis of changes that will preoccupy Americans in a future that may be nearer than they or their officials believe.

WALTER LAFEBER
Cornell University

The Opposition Presidency: Leadership and the Constraints of History
by David A. Crockett. College Station, Texas A&M University Press, 2002. 320 pp. $39.95.

What is an opposition president? It is a president "from a political party that is in opposition to a reigning governing philosophy" (p. 5). In historical terms, that means an American president who served at a time when the other party had been dominating political discourse and, in some plausible general sense, dominating elections.

Leaving aside the early generations, twelve opposition presidents, according to the author's count, have held office during American history. Four Whig presidents served in an era when the Democrats were generally dominant: William Henry Harrison (for a month), John Tyler (the un-Whiggish successor to Harrison), Zachary Taylor (for just over a year), and Millard Fillmore (the successor to Taylor). Three Democrats served during a long post-Civil War span when the Republicans are argued to have been dominant: Andrew Johnson (the successor to Lincoln and, yes, a Democrat, if a strange one), Grover Cleveland (he counts twice toward the twelve), and Woodrow Wilson. Three Republican presidents served during the long post-New Deal span when the Democrats are said to have been dominant: Dwight Eisenhower, Richard Nixon, and Gerald Ford. The author sees a hinge point at 1980 when Ronald

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Reagan effectively ushered in a new reigning governing philosophy, so we experienced Bill Clinton as the last of the twelve opposition presidents to date.

As a category, the idea of an opposition president seems useful; the list of twelve presidents seriously creaks only with Wilson. It would have surprised Nelson Aldrich, Joseph Cannon, and William Howard Taft to hear that their party's governing philosophy kept reigning after the shocks of the 1910 and 1912 elections. Anachronism seems to be at work here. Blot out the Democrats' later electoral reverses in 1918 and 1920, which were probably brought on by their management of World War I and its aftermath, and Wilson during his first term seems to rank high as a successful expounder of a new party governing philosophy. But generally, the author's category makes sense.

The chief strength of this book is at the micro level. For each of the twelve opposition presidents, the author presents a sketch. What did these men aim to do in office, how did they actually behave there, what constraints did they run up against, and how successful were they? If for no other reason, the book is worthwhile for at least these sketches. They are immaculately done: accurate, polished, interesting, composed with loving care, and well-sourced, although in general the author might have profited from consulting relevant recent works on ideology by John Ashworth, James L. Huston, and John Gerring. For a snappy, authoritative account of what Zachary Taylor or Millard Fillmore or Grover Cleveland was doing in office, look here.

It is not convincing, however, that any overall behavioral pattern unites these twelve opposition presidents. As the author surefootedly relates, some have behaved one way, some another. For example, Taylor, (Andrew) Johnson, and Clinton (in 1993–1994) are said to have undertaken "frontal assaults" against the reigning governing philosophies of their times, but Cleveland and Eisenhower did not do that. Also, one wonders how much these opposition presidents have differed from other presidents. To be sure, the author's research design, which works well enough for his purposes, does not allow much boring into that question, although he does come up with certain interesting observations such as that all four presidents hounded by impeachment drives—Tyler, Andrew Johnson, Nixon, and Clinton—have been opposition presidents. But the author tends to over-generalize at times, for example in stating, "opposition presidents inevitably create friction with the anchor faction of their own party" (p. 223); that probably *wasn't* true of Wilson, but it probably was true of John Adams, Thomas Jefferson, Abraham Lincoln, Rutherford B. Hayes, Theodore Roosevelt, and Jimmy Carter.

DAVID R. MAYHEW
Yale University

Deciding to Leave: The Politics of Retirement from the United States Supreme Court *by Artemus Ward. Albany, State University of New York Press, 2003. 344 pp. Cloth, $86.50; paper, $29.95.*

Although Professor Ward's highly serviceable new tome is not, as one blurb would have it, "the first thorough analysis of the departure processes and mo-

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tives of each justice in the Court's two hundred plus history"—that first was Professor David N. Atkinson's commendable *Leaving the Bench: Supreme Court Justices at the End*—Ward's work represents a genuine contribution to the endemic problem of structuring the politics of retirement from the highest tribunal of the land. For there is simply no gainsaying that Article III of the Constitution is crystal clear in its verbiage that provides federal judges, "both of the supreme and inferior courts," with the permanence of their station so long as they "hold their Offices during good Behavior." Although thirteen lower court federal judges have been impeached by the House and seven of these convicted by the Senate, only one of the 108 Supreme Court Justices to date (June 2003), Samuel Chase (1796–1811), was impeached; yet, he was deservedly acquitted by the Senate, which found no "high crime or misdemeanor" that would have constituted the absence of "good behavior." How, then, absent the delicate and dubious endeavors of collegial persuasion such as those involving Justices Robert Grier and Stephen Field, should the judicial staffing process deal with the unwillingness of aged or seriously ill members to leave the bench?

With admirable thorough cataloguing, Professor Ward provides the reader with thumbnail sketches of the facts surrounding each of the 108 justices' departure from the Court. They are classified under the trio of death, resignation, and retirement; ably and helpfully reported with a plethora of illustrations, figures, and tables; and all provided in ten chapters with copious endnotes and bibliographies. It becomes quickly obvious that there were no *retirements* until the enactment of the first modest retirement statute in 1869, which meant that the thirty-three justices who served between 1789 and 1869 had but two options for departure: death or resignation. The 1869 law provided that justices who had served for at least ten years and attained the age of seventy could retire with a pension equal to their active duty salary. Between 1869 and the next retirement statute, enacted by Congress in 1937, fourteen of the thirty-six justices serving during that period elected retirement, three resigned, and nineteen died.

The 1937 law, passed during the notorious "Court-packing" era, further liberalized the retirement option by providing that any justice reaching the age of seventy with at least ten years of service as a federal judge could retire in "senior status" rather than resign and receive the same pension benefits as resigned justices. Of the sixteen justices serving between 1937 and 1954, the date of the next (and presently in force) retirement law, six chose retirement, two resigned, and eight died. The 1954 law allows all federal judges to retire at full salary at age seventy with at least ten years on the bench, or at sixty-five with fifteen years. Between 1954 and June 2003, of the fourteen justices who stepped down, five retired, two resigned, and seven died. And of the nineteen who served between 1954 and 1994 (the year of the last Supreme Court appointment, Justice Stephen Breyer) and left the court, *all* took retirement except Arthur Goldberg, who was talked into resignation by President Lyndon B. Johnson, and Abe Fortas, who resigned under pressure.

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Indubitably, the availability of the liberalized retirement option has gone a long way toward encouraging superannuated members of the bench to step down. But it has not found a way to deal with those whose mental or physical incapacities become serious on-bench problems *cum* embarrassment. Hence, many observers and students of the federal bench, in general, and the Supreme Court, in particular, have pondered the advisability of a constitutional amendment to mandate cessation of service at age seventy-five. Like sundry colleagues who have pondered the matter, Professor Ward outlines the pros and cons of such a requirement engagingly, noting its arguable merits, but pointing out that, among others, the nation would have lost the services of such octogenarians in full command of their capacities as Supreme Court giants Oliver W. Holmes, Jr., Louis Brandeis, Charles Hughes, and, on the current Court, John Paul Stevens. Ultimately, Ward rejects the resort to such a major restriction, and so does this reviewer—while acknowledging its considerable wisdom.

HENRY J. ABRAHAM
University of Virginia

Gorbachev and Yeltsin as Leaders *by George W. Breslauer. New York, Cambridge University Press, 2002. 331 pp. Cloth, $65.00; paper, $23.00.*

Yeltsin's Russia and the West *by Andrew Felkay. Westport, CT, Greenwood Press, 2002. 272 pp. $59.95.*

The book by George Breslauer, a political scientist at the University of California-Berkeley, examines the leadership strategies of two men who successively held the top political post in Moscow: Mikhail Gorbachev, the final leader of the Soviet Union from March 1985 to December 1991, and Boris Yeltsin, the president of Russia from June 1991 to December 1999. The title of the book is similar to that of an earlier study by Breslauer, *Khrushchev and Brezhnev as Leaders: Building Authority in Soviet Politics*, which analyzed the leadership strategies of two of Gorbachev's predecessors, Nikita Khrushchev and Leonid Brezhnev. In *Gorbachev and Yeltsin as Leaders*, Breslauer frequently refers to and draws from his earlier work, but his approach here is somewhat different. His assessment of Gorbachev and Yeltsin focuses on their personalities and beliefs, whereas his book about Khrushchev and Brezhnev highlighted the constraints posed by the Soviet political system. The reason for this shift of emphasis, Breslauer explains, is that Gorbachev and Yeltsin, unlike Khrushchev and Brezhnev, were "transformational" leaders. Breslauer defines a transformational leader—a term used frequently in business-school textbooks and organizational theory as well as in political science—as one who brings about "fundamental change in the culture and ordering principles" of a society (p. 2). Analyses of transformational leaders must take account of structure, but they necessarily accord greater importance to agency.

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There is a vast literature in the fields of American politics and comparative politics on the subject of political leadership, and there is also an extensive literature on political leadership in communist systems. Breslauer drew on some of these writings when he devised an "authority-building" model of political leadership for his book about Khrushchev and Brezhnev. He seeks to use that same framework, with some modifications, in *Gorbachev and Yeltsin as Leaders*. Breslauer argues that, in addition to the personal characteristics and beliefs that motivated Gorbachev and Yeltsin, six "other factors delimited and shaped their behavior at given points in time" (p. 231): the structure of the political system, the ideological cast of the regime, the prevailing sentiment among high-level officials and influential observers, the jockeying and maneuvering among political elites, pressure from organized social forces, and the influence of foreign actors and international organizations. Breslauer avers that "when Khrushchev and Brezhnev were in power, these factors were relatively limited, stable, and predictable," but that "the influence of [the third, fifth, and sixth] factors grew dramatically as Gorbachev's radical policies took effect" (pp. 231–232).

Breslauer spends most of the book showing how Gorbachev and Yeltsin built, maintained, and eventually lost their authority as political leaders. He defines "authority" not in strictly Weberian terms, but as "legitimized, credible power" (p. 3). Breslauer begins with a brief survey of leadership strategies in Soviet and Russian politics (drawing on his 1982 book) and then discusses the personalities and political beliefs of Gorbachev and Yeltsin. He traces the ascent and decline of Gorbachev in three sequential chapters and does the same for Yeltsin in five chapters, including one devoted to Russia's initial war in Chechnya, from December 1994 to August 1996. These descriptive overviews are followed by a chapter that attempts to explain Gorbachev's and Yeltsin's choices and decisions. Breslauer concludes the book with three chapters that evaluate the two men as leaders. He first briefly sets out his criteria for judging transformational leaders and then applies them to Gorbachev and Yeltsin. Breslauer eschews a normative standard of evaluation and focuses instead on each leader's effectiveness in achieving his main goals at an acceptable cost (that is, a cost acceptable to the leader himself.) These final chapters are an expanded and revised version of an essay that Breslauer published in a recent collection edited by Archie Brown and Lilia Shevtsova, *Gorbachev, Yeltsin, and Putin: Political Leadership in Russia's Transition*. Unlike some other contributors to that edited volume, Breslauer wisely refrained from trying to make an instant analysis of Vladimir Putin's leadership qualities.

The sources that Breslauer consulted for his discussion of Gorbachev and Yeltsin include public statements, memoirs by the two leaders, memoirs by many officials who worked for or against them, the concrete actions they took in 1985–1999, and secondary analyses. The range of sources is a good deal wider and richer than the scant evidentiary base available to Breslauer twenty to twenty-five years earlier when he was writing his book about Khrushchev

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and Brezhnev. Nonetheless, it is unfortunate that he did not make use of declassified documents from archives in Russia, particularly the Fond 89 collection at the Russian State Archive of Recent History (a collection that is also now available on microfilm at numerous U.S. university libraries), the extensive holdings of the Gorbachev Foundation's archive, and the archives in Stavropol and Ekaterinburg. Many declassified items also have appeared over the past decade in Russian journals (such as *Istochnik* and *Istoricheskii arkhiv*) and document anthologies.

Despite Breslauer's decision to forgo archival evidence, his analysis is perceptive, and his conclusions are convincing and well-supported. He provides an excellent overview of the way Gorbachev and Yeltsin governed their respective countries. Much of the material will be familiar to those who have followed these events closely, and some scholars no doubt will wish that Breslauer had done more to show how his findings contribute to the recent theoretical literature on political leadership. Overall, however, the book is highly successful. It explains why Gorbachev and Yeltsin acted as they did, how they managed (or failed) to achieve their goals, and how they should be judged as leaders. Breslauer rightly underscores the decisive historical importance of both men, noting that "things would have happened quite differently had different individuals been in charge. [Gorbachev's and Yeltsin's] acts of leadership were crucial" (p. ix). This is, if anything, an understatement. Had an orthodox Brezhnevite official like Viktor Grishin or Grigorii Romanov come to power in March 1985 instead of Gorbachev, the Soviet Union in all likelihood would still exist.

Two small reservations should be noted. First, the evaluation of leadership tends to be static. The criteria that Breslauer uses to evaluate transformational leadership are sound, and he rightly argues that judgments about a leader's effectiveness must take account of the constraints faced by the leader and the feasibility of alternatives to the extent that their feasibility can be deduced from counterfactuals. Nonetheless, a net assessment of each leader's effectiveness in attaining his goals must be dynamic. Goals can change over time, either in response to circumstances or because the leader himself changes. Goals that existed in 1985 may have been considerably different from those of 1989 or 1990. A leader who never adjusts his goals may undermine his own leadership or may prevent much of anything from being achieved. It is not clear in Breslauer's discussion how (or whether) we should take account of this dynamic element.

Second, Breslauer's authority-building framework may need further adjustment. The fact that Gorbachev and Yeltsin were in charge of different countries (both of which had their capital in Moscow) and that Gorbachev never stood for popular election, whereas Yeltsin won two terms through nationwide votes, raises questions about the comparability of their efforts. Surely a leader who was popularly elected by a wide margin has less inherent need to consolidate his power and build authority afterward. Concepts that make sense when

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discussing unelected Soviet leaders are not necessarily as crucial in analyzing Russian presidents.

These minor caveats aside, Breslauer's book offers a first-rate account of the crucial roles that Gorbachev and Yeltsin played in the tumultuous final years of the Soviet regime and the initial years of the new Russian Federation. The book deserves to be widely adopted in classes on Russian politics, the demise of authoritarian regimes, and post-communist transformations.

Even before the Soviet Union was dissolved at the end of 1991, the new Russian government headed by Boris Yeltsin had established ties with Western governments. Those ties, however, were not always harmonious. Most Western leaders viewed Mikhail Gorbachev, the head of the Soviet Communist Party (CPSU), as their main partner in Moscow, and they were wary of the political challenge that Yeltsin posed to Gorbachev. Some Western officials openly described Yeltsin as a demagogue and urged him to tone down his criticisms of Gorbachev. In retrospect, this situation seems rather ironic. Unlike Gorbachev, who was never willing to seek popular election, Yeltsin stood twice for popular election in the Soviet Russian republic and won handily both times. In March 1989, he received nearly 90 percent of the vote for a seat in the USSR Congress of People's Deputies, and in June 1991 he easily won a nationwide election for the Russian presidency. Moreover, unlike Gorbachev, who sided with hardliners in the Soviet Union from September 1990 through April 1991, Yeltsin consistently voiced support during that period for Western-style democracy and free-market reform. Nonetheless, until the attempted coup d'état in Moscow in August 1991 (when Yeltsin played a crucial role in rebuffing the conspirators), Western governments tended to have much warmer relations with Gorbachev than with Yeltsin.

Despite this inauspicious beginning, Yeltsin sought close links with the West after the Soviet Union broke apart. Over the next eight years, until Yeltsin's abrupt resignation at the end of 1999, Russia remained broadly cooperative with the West, despite numerous events that caused severe strains in the relationship. Although Yeltsin never achieved the full-fledged strategic partnership that he sought with the United States, and although he was wont to engage in bombastic rhetoric when Western governments displeased him, the orientation of Russian foreign policy after 1991 was a striking contrast to the decades of intense Soviet hostility toward the West.

Until the publication of Andrew Felkay's new monograph, no book-length survey of Russia's ties with the West during the Yeltsin era had appeared. Felkay writes that his "primary intent" is to examine "the impact of Boris Yeltsin on the evolving relationship between the Western democracies and Russia" (p. 5), but he also spends a considerable amount of time providing background on Yeltsin and discussing Yeltsin's domestic policies. Felkay claims, justifiably, that it would be "folly" to "separate the process of formulating foreign policy from domestic political developments" (p. 5), but he does not integrate the two spheres as well as one might hope. In such a brief book, the

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chapters about Yeltsin's upbringing, early career, and initial experiences during the Gorbachev era seem extraneous. Almost all of this material is likely to be familiar to those who have read Yeltsin's memoirs and other works about the Gorbachev–Yeltsin confrontation. A greatly abridged discussion of these matters would have sufficed in an overview of Russia's relations with the West.

Throughout the book, Felkay cites Western and Russian press coverage and a scattering of other published materials, and he relies extensively—some would say excessively—on Yeltsin's three volumes of memoirs which, like almost all memoirs, offer a pronounced spin on the events they discuss. Although Felkay also adduces the memoirs of a few of Yeltsin's advisers (Aleksandr Korzhakov and Andrei Kozyrev), he does not refer to the memoirs of many other key figures who worked for or against Yeltsin, including Evgenii Primakov (who served successively as foreign intelligence director, foreign minister, and prime minister), Egor Gaidar (who served as prime minister in 1992 and in other high-level posts after that), Vyacheslav Kostikov (Yeltsin's press secretary and aide), Lev Sukhanov (one of Yeltsin's top aides), and Ruslan Khasbulatov (who was speaker of the parliament during the standoff with Yeltsin that led to the bombardment of the parliamentary building in October 1993). Nor does Felkay draw on the memoirs of Leonid Kravchuk and Stanislaus Shushkevich, the Ukrainian and Belarusian leaders who joined with Yeltsin in December 1991 to sign the agreements that brought an end to the Soviet Union. More important still, Felkay fails to consult Gorbachev's memoirs and the memoirs of other Soviet Politburo members who served alongside Yeltsin such as Egor Ligachev, Vitalii Vorotnikov, Nikolai Ryzhkov, Vadim Medvedev, Aleksandr Yakovlev, Dmitrii Yazov, and Vladimir Kryuchkov. The omission of any references to Gorbachev's memoirs is especially peculiar. Surely a balanced understanding of the Yeltsin–Gorbachev confrontation requires at least some consideration of Gorbachev's perspective.

It is also very strange that Felkay does not make any use of the numerous memoirs by Western officials who dealt with Yeltsin. Although the recent book by Strobe Talbott, *The Russia Hand: A Memoir of Presidential Diplomacy*, appeared too late for Felkay to consult, there is no reason that he could not have drawn on memoirs by James Baker, George H. W. Bush, Brent Scowcroft, Jack Matlock, Robert Gates, Helmut Kohl, Hans Dietrich Genscher, and Margaret Thatcher. These glaring omissions are compounded by Felkay's failure to make any use of declassified archival materials, including the transcripts of CPSU Central Committee plenums and other documents in Russia that could have supplemented the accounts provided in Yeltsin's memoirs as well as materials in the United States that could have been obtained through the Freedom of Information Act.

The meagerness of the sources that underlie Felkay's analysis is mirrored in the often superficial nature of his narrative. This is not to say that the book is wholly without merit. Felkay makes a number of good points and observations. But almost all of the major events and issues in Russian-Western

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relations in the 1990s receive much too cursory treatment here. The clipped nature of Felkay's discussion might have been excusable if he had been seeking to focus on a specific theoretical proposition or to test hypotheses derived from recent debates in the field of international relations, but this definitely was not his intent. His book is a straightforward recitation of events, bereft of any attempt to draw theoretical implications. In addition, the book contains a sizable number of factual mistakes (for example, the wrong dates for the dissolution of various East-bloc organizations) and misspelled names (Sacks instead of Sachs, Skubishevski instead of Skubiszewski, Walensa instead of Wałęsa), and the text in many places needs more extensive editing.

Yeltsin's tenure in Moscow inspired strong views in both Russia and the West. Some Western analysts, such as Leon Aron in his important biographical study, *Yeltsin: A Revolutionary Life*, have offered a highly favorable (indeed at times almost uncritical) assessment of Yeltsin. Others, such as Peter Reddaway in *The Tragedy of Russia's Reforms: Market Bolshevism Against Democracy*, have portrayed the former Russian leader in an extremely negative (almost demonic) light. Views of Yeltsin among analysts in Russia initially were positive but grew increasingly negative amid the political and economic turmoil of the 1990s. In Russia today, experts' views of Yeltsin are still mostly unfavorable, ranging from the unremittingly hostile opinions expressed by Dmitri Glinski-Vassiliev and Lilia Shevtsova to the more restrained, though by no means uncritical, assessments in a recent collection edited by Yurii Baturin. Now that the Yeltsin era is receding into the past, sentiment in Russia about the former president is slowly becoming less passionate, but the general view of Yeltsin is likely to remain more negative in Russia than in the West for some time to come.

Felkay is among those who see Yeltsin in a decidedly positive light. He writes that Yeltsin "changed the course of Russian history, leading the country out of almost three-quarters of a century of communist rule and a thousand years of tyranny" (p. 246), a description that gives short shrift to Gorbachev's contribution. Felkay argues that "Yeltsin did democratize Russia" and placed it "well on its way toward real democracy and [a] free-market economy," and he assures us that "history will definitely be kinder to [Yeltsin] than his contemporaries" are (p. 246). These judgments are sensible, if perhaps a bit excessive, but it is doubtful that Felkay's book will be enough to convince skeptical readers like Reddaway (not to mention Russians like Glinski-Vassiliev) that they should rethink their jaundiced views. Not until far more time has passed and scholars are able to reexamine the Yeltsin era with greater dispassion will it be possible to determine how much of a break Yeltsin's rule truly was with the Tsarist and Soviet autocracies.

MARK KRAMER
Harvard University

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Blood and Debt: War and the Nation-State in Latin America *by Miguel Angel Centeno. University Park, Pennsylvania State University Press, 2002. 330 pp. $45.00.*

Charles Tilly summarized much comparative historical scholarship through his observation that states make wars and wars make states. Centeno pursues a corollary to assess the experience of Iberian South America plus Mexico (hereafter, "Latin America") in active colloquy with European historiography. Centeno summarizes part of his argument as "no states, no wars" (p. 92). The other part could be rendered as "no wars, no states."

Centeno seeks to explain the relative infrequency and short duration of Latin America's wars. He emphasizes state incapacity: states lacked the fiscal, bureaucratic, and military capabilities required for war against another state, given the formidable physical obstacles posed by the Andean mountains and the Amazon jungle. Centeno also presents a persuasive ideational explanation for persisting relative international peace, even after capable states developed: The public nationalism of Latin American states very rarely created social hatreds of neighboring peoples, nor did military establishments nourish the bellicose culture that might have transformed the state's neighbors into its enemies. Most Latin American militaries killed more fellow citizens than citizens of other states.

The author also attempts to explain why the wars that occurred did not contribute to the development of states. Regarding international war, he argues convincingly that "enough of an institutional/administrative core must exist prior to war for it to serve as a stimulus for administrative development" (p. 275). Latin America's international wars were thus badly timed. Most occurred before the rise of sufficient state capacity; when such capacity was finally in place, international wars had become less common. Regarding civil wars, Centeno observes that they rarely provided a decisive victory, unlike the end of the War of the Roses in England or the U.S. Civil War. Chieftain-based and regional struggles weakened capital–city authority in most Latin American countries in the nineteenth century and left central states unable to exert fiscal, regulatory, bureaucratic, and military power until well into the twentieth century.

Centeno displays dazzling creativity in his gathering of evidence. He examines thousands of titles of articles published in military journals; draws inferences from public monuments, currency bills, and stamps; tracks fiscal revenue; and ponders the impact of military conscription. He brings new data to long-standing questions of fundamental importance.

The book raises questions, however. South American states did develop noteworthy capacities, go to war with each other, and until the 1980s were plagued by unresolved recurrently militarized boundary disputes. Why was it that in the twentieth century often the weakest states—Bolivia, Paraguay, and Ecuador—initiated war? Moreover, to explain why wars remained rare and

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brief, an international-system argument is almost surely essential; yet, Centeno does not develop it. He refers, instead, to U.S. and British policies, but U.S. impact on South America was modest until the twentieth century, and Centeno's own evidence shows that neither Britain nor the United States played the role of proconsul.

The book leaves uncharted the questions of why states develop at all. Nor does it explain the variation regarding the effects of wars on state development. In the nineteenth century, Centeno agrees, war and preparation for war fostered Chilean and Paraguayan state consolidation in the second quarter and Argentine and Mexican state consolidation in the last quarter. War strengthened the Brazilian empire in that century's third quarter. That is half of his eleven cases. A better book would have dealt with this war-related state development systematically, not as exceptions.

Centeno's book is a landmark of historically grounded, contextually rich, evidentially impressive sociological research. He has set a new standard for sustained comparative Europeanist and Latin-Americanist research. He has shed new light on grand questions of comparative history, illuminating the paths taken and not taken by Latin American states.

JORGE I. DOMÍNGUEZ
Harvard University

U.S.-Japan Relations in a Changing World *edited by Steven K. Vogel. Washington, DC, Brookings Institution Press, 2002. 286 pp. Cloth, $45.95; paper, $18.95.*

Numerous conferences have been held and papers written to commemorate the fiftieth anniversary of the signing of the San Francisco peace treaty in 1951, which have resulted in the publication of collections of essays. This volume is a notable example. It contains ten essays, originally presented at a conference held in September 2001 as a part of the fiftieth anniversary celebration.

The usefulness of any collection of essays ultimately depends on the value of the individual contributions. The most interesting essays in the volume are those by Leonard J. Schoppa on domestic politics and by Amy E. Searight on international organizations. Schoppa shows how domestic politics in Japan and the United States have frequently served to provide stability in the bilateral relationship. As he writes, during the 1950s, "Japanese politics surrounding security policy . . . were conducive to the establishment of a cooperative relationship because some elements with Japan were sympathetic to the demands being made by the United States" (p. 99). At the same time, the Japanese Socialists' opposition to rearmament could be used by officials both in Tokyo and Washington to argue for an alliance that did not rely upon a major military commitment by Japan. Although Japanese domestic politics was sharply divided on the security question, this very division, in effect, served to preserve

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for a long time the rather unusual alliance in which Japan's military role was very limited. While most works on the subject focus on their bilateral relationship, Searight puts it in the framework of multilateralism and points to a very interesting phenomenon: Japan's increasing interest in playing a significant role in international organizations, in contrast to the diminishing commitment on the part of the United States to such cooperation, something that became apparent during the 1970s. The author notes that "Japan has sought to bind the United States to multilateral rules that would constrain the unilateral exercise of its power"(p. 173). Although such efforts seem to have failed more often than not (for example, the Kyoto protocol and the Iraq war), this divergence is likely to grow in importance.

Singling out these essays for mention should not imply that the other contributions are of lesser value. While they deal with topics about which reams have been written—on security, economics, the media, and technology—they do offer interesting suggestions about the future direction of U.S.-Japanese relations. Here, there are some disagreements among the authors. Michael J. Green thinks "the international distribution of power" (pp. 31–32) will be the key to the future of the security alliance, whereas Steven K. Vogel, the volume editor, asserts that "military power is [today] less dominant because it is irrelevant to a growing proportion of the international relations agenda" (p. 269). In either case, there is recognition of the importance of the regional picture, a perspective that is shared by many other contributors. William W. Grimes notes that since 1991, "a larger share of Japanese exports has been with Asian countries than with the United States" (p. 52), while Keith A. Nitta speculates, "If the United States [expects] a continued Japanese subservient role on every issue, Japan may turn to regional organizations as arenas for action, moving from a foreign policy of open regionalism to closed regionalism" (p. 90).

These observations suggest that the bilateral relationship will be increasingly embedded in the regional context, which may, in turn, be defined by what is happening globally. The development of a bilateral relationship into something more multilateral, regional, and ultimately global is a fascinating story, and the essays in this volume help us understand this evolution from many pertinent perspectives.

AKIRA IRIYE
Harvard Univesity

Yellow Smoke: The Future of Land Warfare for America's Military *by Robert H. Scales, Jr., Lanham, MD, Rowman & Littlefield, 2003. 208 pp. $24.95.*

Major General Scales has written an important book. Although it joins a growing number of others that treat future land warfare and offer prescriptions

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for modernizing the U.S. military, this volume should not be pushed aside as more of the same. The author was the commandant of the Army War College before his retirement, and he led a lengthy study meant to help the army leadership decide how best to modernize and adapt to the post-Cold War political, fiscal, and technological realities. Thus, he provides readers an exposure to the methods of thought and analysis that have guided U.S. Army doctrinal change and force development since the Vietnam War.

Scales does a first-rate job of showing the complexities and challenges the U.S. Army faces in an environment of political and technological change. He argues that land forces must undergo more change—both technological and intellectual—than sea or air forces. The latter face no big, new threats at sea or in the air while land forces confront a plethora of new adversaries. Moreover, the relative simplicity of sea and air space is not comparable to the complexities of ground terrain, weather, and hostile populations confronting land forces.

One might quarrel with some aspects of his description of the changing geostrategic environment and where and why U.S. military forces may be used, but one also has to admit that he meets his stated criterion: not to be terribly wrong about them. He identifies the two key changes from the Cold War environment. First, an overwhelming American military faces numerous small and far less competent potential adversaries. Second, they will most often be positioned very far away from deployed U.S. forces. That makes time and distance critical variables for operational planning. In turn, these variables become central determinants for designing forces and lift capabilities to move them.

He traces the changes in the importance of these variables from the Korean War through Vietnam, Panama, Somalia, Kuwait, Kosovo, and Afghanistan, insisting that the U.S. military adapted more effectively than generally recognized in dealing with time and distance as they affected maneuver and firepower in highly varied terrain and political contexts. The recent war in Iraq fits neatly with the trends he identifies from this evolutionary process, yielding what he calls a unique "American style of war."

Scales is willing to challenge conventional Pentagon wisdom. For example, close combat soldiers, that is, infantrymen, who compose only 4 percent of the army's personnel, do not get the priority they deserve in modernization programs. New technology makes their tasks mentally more demanding. Yet, they are largely recruited from the low IQ ranks. No other soldiers face the physical and psychological demands they do. But the army's assignment system denies them the social cohesion and intense training they require. Their importance, Scales insists, is grossly underappreciated. Aircraft, artillery, and ships cannot finish wars, only combat infantrymen can. For another example, while Scales accepts the need to lighten ground forces to make them more mobile, he insists that light forces should never be left to fight without Abrams M-1 tank units for support.

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The war in Iraq vindicated both of his judgments, even for the layman watching television coverage of the 3rd Infantry Division moving north to seize Baghdad. Army heavy forces, with M-1s and close combat soldiers, proved more critical than any other type of force. The book is not easy to read, but it will be invaluable for university courses in national security policy making as well as for congressional staffers and journalists.

WILLIAM ODOM
Georgetown University

Democracy and Post-Communism: Political Change in the Post-Communist World *by Graeme Gill. New York, Routledge, 2002. 272 pp. $95.00.*

This book addresses one of the most fascinating questions of the post-communist transition: Why did some post-communist states achieve stable democratic political systems while others did not? The subject of Gill's study are twenty-six post-communist countries that he catagorizes into three broad groups: democracies, façade democracies, and non-democracies. The book's central argument is that these different political trajectories can be explained by the strength of civic society forces vis-à-vis the regime at the time of regime change. Prospects for democracy were greater in the post-communist countries where civic society forces were stronger and played an important role in the negotiations at the initial stage. Alternatively, where civil society was weak and regime transition was left in the hands of the old regime elites, an authoritarian outcome was more likely. Depending on the position of civil society forces vis-à-vis the state, the author identifies six basic patterns of regime change that lead to one of the three outcomes in the post-communist states.

The book begins with a typology of post-communist regimes and critiques of existing explanations of the divergent trajectories pursued by the post-communist countries. The following chapters cover the period of regime change and the subsequent political and institutional developments that took place in these countries in the 1990s, the history of the civil society in the post-communist countries, and party systems developed in the post-communist period, including data on the nongovernmental organization sector development and public activism in them as well as on privatization progress. Gill concludes with an analysis of state policies on economic reforms and constitutional engineering.

The book's central argument that the strength of civil society and the role it played at the time of regime crisis determines whether a country will become a democracy is plausible and compelling, even if not entirely new. The theoretical framework of the book, however, has some limitations. If the strength of civil society is so important for the developmental trajectories the post-communist

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states took, what needs to be explained is why civil society emerged stronger and more consequential in regime negotiations in some countries than in others. Given that most of today's post-communist democracies did not have a legacy of a democratic system, that their inter-war civil societies featured nationalist and extremist groups, and that the decades of communist rule further served to weaken civil society, how did some of these counties end up with a stronger civil society at the end of communism? Gill's argument that the absence of democratic tradition in the region is not the same as the absence of civil society is well taken, but the question that remains is how the presence of various societal groups in some of the non-democratic states of inter-war central Europe succeeded in creating strong civil societies and democracy in these states at the end of the communist era. The book only devotes fifteen pages to the roots of civil society in the twenty-six counties, and the circumstances of the fall of communism that the author argues have "overwhelmingly" (p. 181) shaped the subsequent trajectories of states are discussed only in a part of one chapter. Given the centrality of these variables to the argument of the book, they could have been given a more thorough treatment. Gill also makes an interesting distinction between civil society of ethnic and non-ethnic nature, but he finds only the latter conducive to democracy. It remains unclear what determines when one or another type of civil society is more likely to emerge.

The book is well written, and its empirical breadth will be attractive for non-area specialists who seek a good overview of the situation in the post-communist region rather than a specialized study of one country or a group of countries. The book also includes many useful tables with a variety of comparative data on the post-communist countries. Area specialist would likely find the introductory and concluding chapters that summarize the theoretical argument most useful. The book can also be a valuable text in the upper-level undergraduate and graduate level classes on post-communist transition.

OXANA SHEVEL
Harvard Univerity

When the Stakes Are High: Deterrence and Conflict among Major Powers *by Vesna Danilovic. Ann Arbor, University of Michigan Press, 2003. 312 pp. $52.50.*

This book offers a rigorous, detailed examination of conventional deterrence at a Dickensian moment—the best and worst of times for such a study. What can deterrence in the last century among major powers tell us about asymmetric and minor-power conflicts today? Danilovic's achievement is to weave an illuminating account of a process relevant to contemporary issues by paying careful attention to contexts and cases embedded in the past. Neither abstract theory nor historical anecdote, the study presents a potent combination of applied theory, critical assessment of a broad set of literatures, and detailed data preparation.

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The book is organized into three parts and eight chapters. Part I introduces the subject and argument (chapter 1) and reviews definitional, intellectual, and empirical antecedents of major powers (chapter 2) and of deterrence and conflict (chapter 3). The second part of the text lays out three perspectives on major power deterrence, static and dynamic theories of power (chapter 4), geographically based interests (chapter 5), and domestic/internal interests (chapter 6). The final portion of the text offers a unique synthesis of the three approaches to deterrence theory discussed and analyzed previously (chapter 7) and a review of the theoretical and policy implications of the study (chapter 8). The text also includes extensive data appendices that summarize all the cases used in the statistical analysis in the study, a delineation of coding rules, a listing of data sources, and a short primer on quantitative analysis with discrete choice models.

The thesis of the book is that the search for credibility in deterrence theory has lost sight of the elemental importance of interests. Context, and in particular geography, provide the backdrop for credibility; state interests precede attempts to challenge and to deter. As Danilovic asks, "Why assume that an opponent is oblivious of a deterrer's *vital* national interests?" (p. 5). States do (or should) treat deterrence less like an instrument of reputation and more like the product of variable interests. The argument makes eminent sense, especially when viewed in the context of universalist deterrence theory espoused and (abortively) practiced by the superpowers during the Cold War. It also speaks loudly to critics of rational deterrence theory who, implicitly focusing narrowly on the universalist model, argue that deterrence does not work. Finally, the text joins a growing movement in international relations to bring geography back in to world politics.

Danilovic develops a new dataset of all general deterrence failures and direct–immediate deterrence failures among major powers between 1895 and 1985. She also includes data on extended–immediate deterrence. She uses these data to test hypotheses about the impact of power and interests (both geographic and political) on deterrence and crisis outcomes (acquiescence by the challenger or defender, compromise, or war). Independent variables include the Correlates of War Composite Index of National Capabilities (CINC) scores, trade, democracy, and Danilovic's own coding of regional interests for all major powers. Among other results, the study finds that power relations are a relatively poor indicator of deterrence success or failure, but that geographic interests (especially mutual interests) strongly influence deterrence crisis. There is also further evidence of the uniquely dyadic effect of democracy in discouraging crisis (the democratic peace). Finally, the study suggests caution about credibility arguments, finding no support for reputation.

The text is peppered with insights (Alfred Thayer Mahan was not so much an advocate of sea power as sea-transported power) and historical anecdotes (thirty years pass after the Venezuelan crisis of 1902 before the United States again experiences extended-immediate deterrence against a major power, Ja-

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pan, over the Shanghai incident). Danilovic also engages recent thinking about strategic behavior, challenging commitment and costly signaling arguments with her theory of inherent credibility: ". . . if the selection bias literature is correct, then the present empirical analysis should make it harder to validate the inherent credibility model . . ." (p. 146). The evidence provided suggests that bias arguments are incorrect. Selection does not lead to a greater likelihood of immediate deterrence failure when defenders possess ex ante indicators of success.

There remains a logical tension, however, between the notion of inherent credibility and the idea of deterrence. Deterrence represents a psychological drama; states seek to alter one another's beliefs about what might happen should war ensue. Countries that actually engage in deterrence behavior must therefore be those that harbor doubt. If state interests are inherently credible, then there is no need for the behavior the study seeks to explain. If, instead, states are uncertain and one accepts that general deterrence deters, then challengers in immediate deterrence crises should be particularly likely to fight. That states appear not to behave as standard deterrence theory suggests represents a paradox worthy of additional study.

When the Stakes are High is most compelling in reinstating a key role for national interest in studies of state reputation. Debates on the subject have failed to incorporate the contingent nature of inferences drawn from crisis behavior. "It is unconvincing, for example, to argue that leaders in the Balkans were deterred by U.S. intervention in Haiti . . ." (p. 173). Yet, it remains to integrate theories of the manipulation of crisis with accounts of the causes of war and peace. If power and interest are to serve a pivotal causal role in the onset of contests, then it must also be explained how contests alter power or interests so that wars can end. Obviously, such a task will not be accomplished in a single volume. For now, Danilovic has taken us down the path to a better understanding of deterrence theory in the twenty-first century by thoughtfully and thoroughly examining deterrence behavior in the twentieth century.

ERIK GARTZKE
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A Faceless Enemy: The Origins of Modern Terrorism *by Glenn E. Schweitzer with Carole Dorsch Schweitzer. Cambridge, MA, Perseus Publishing, 2002. 368 pp. Paper, $17.00.*

First published in 1998, this is a reissuing of the original book with an eleven-page prologue added. As the author points out, long before September 11 the initial edition successfully predicted imminent high-impact terrorist attacks in the United States and the possible use of anthrax sent through the mail. Although not the only source to point to these dangers, it was a remarkably clear-eyed and prescient analysis, still well-worth reading these five years later.

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The book is written in a folksy prose, easily accessible to the non-specialist who wants a pleasant introduction to an unpleasant subject. It is organized thematically, including chapters on nuclear weapons, bioterrorism, "chemoterrroism," money laundering, and drug trafficking. The prose regularly shifts into a first-person narrative that adds authenticity: it is worth reading if only for the colorful stories. It is peppered with interesting anecdotes from the author who, in a lifetime of experience studying dangerous chemical, biological, and nuclear technologies, investigated everything from disease-carrying mosquitoes in the junkyards of Dar es Salaam, Tanzania (1970), to a proposed nuclear reactor facility in Dalat, Vietnam (1972), to a tropical disease program in Kuala Lumpur, Malaysia (1978), to an old nuclear complex in Tbilisi, Georgia (1996). There is particular emphasis on the danger of proliferation from the arsenals of the former Soviet Union, reflective of the author's extensive experience in Russia dealing with post-Soviet nuclear facilities and their underpaid scientists. In a chapter entitled "The Nuclear Legacy: A Shopping Mall for Rogue States and Terrorists", for example, the author makes manifest a plethora of sources of proliferation to international terrorist groups, emphasizing the "supply-side" of the equation for potential catastrophic terrorism. Through much of the twentieth century, Schweitzer was at the heart of attempts to prevent proliferation of dangerous technologies to states and terrorists, and he has a perspective that is unmatched.

It is worth noting, however, that much has happened that might have been productively commented upon here. In the midst of the so-called "War on Terror," the field of terrorism studies is fast-moving; to some extent it is virtually impossible for any writer to keep up. But the decision not to update the original book after September 11 is disappointing, especially since he makes numerous excellent suggestions that have to varying degrees been acted upon, for example, in the areas of homeland security, law enforcement, financial controls, and international cooperation. No doubt the author would point to persisting deficits, but it would have been helpful to have a more current critique. Of course, the treatments of Iraq and North Korea especially beg for updating; in the post-Iraq conflict environment, the reader longs to hear his reflections on the dynamic evolution of the threat of weapons proliferation. And other questions linger: for example, given the arguments presented here about advanced technologies, why did the high impact terrorist attacks in New York, Washington, and Pennsylvania use strictly conventional weaponry, albeit in an unconventional way?

Still, this book is a valuable offering. While it does not deal in depth with current terrorist groups and their motivations, it does provide ample insight into the kinds of technological capabilities they have and are pursuing. It is a chilling and informative exposé, written by an experienced expert who knows infinitely more about the nexus between terrorism and weapons of mass destruction than do most of the post September 11 pundits.

AUDREY KURTH CRONIN
Georgetown University

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Of Paradise and Power: America and Europe in the New World Order
by Robert Kagan. New York, Alfred A. Knopf, 2003. 104 pp. $18.00.

Robert Kagan asserts that on international issues, "Americans are from Mars and Europeans are from Venus" (p. 3). Picking up on classical gender associations recirculated by John Gray's advice books, this catchphrase projects onto transatlantic relations sexy notions about the supposed differences between men and women. The analogy mobilizes conventional assumptions about the supposed biological determinants of sexual difference in support of what Kagan sees as another essential truth: "The United States and Europe are fundamentally different today" (p. 6).

Although Kagan's analysis is in places sophisticated, it relies on narrow, even simplistic, concepts of power, strength, and weakness. While Kagan finds power "the all important question" (p. 3), he considers only military power efficacious. In his supposedly realistic world, neither economic and political pressures, nor cultural influence and ideology (save for ideas about the use of military force) have much impact. Kagan discusses the rise of the Nazis without reference to the Great Depression, which elevated what had remained a minor party during German prosperity. Nor does he mention that until 1939, leaders in the Western democracies appreciated the internal order secured by fascism in Italy and Germany while they worried that another war would spawn communist revolutions. Ignoring such textbook history, Kagan focuses on what he calls the "psychologies of power and weakness": in the inter-war period, "a frightened France" and "the traumatized British" (p. 12) tried "to make a virtue out of weakness" (p. 13).

This narrow view of power and motivation fits the book's rhetorical structure: a simplifying, polarized depiction of the post-Cold War era. In this setup, robust Americans act on realism, while less manly Europeans display "fundamental and enduring weakness" (p. 28), military "impotence" (p. 46), and an "anemic" foreign policy (p. 65). Rejecting power, Europeans opt instead for "exuberant idealism" (p. 60) and "more and more shrill . . . attacks on the United States" (p. 100). Kagan stresses Europe's "relative weakness," reiterating the point on almost every page. By depicting Europe's post-1989 decision not to match American spending on advanced weapons as a failure of will that led to "inadequacies" (p. 24), he denigrates non-military power while justifying Washington's actions. "Given a weak Europe . . . the United States has no choice *but* to act unilaterally" (p. 99).

Kagan argues that Europeans, sheltered by Washington from the "brutal laws of power politics"(p. 58), are "settling into their postmodern paradise and proselytizing for their doctrines of international law and international institutions" (p. 76). While such "doctrines" appear to the author and to many in Washington as indulgent idealism, to worldly Cold Warriors such as Dean Acheson they appeared as useful adjuncts to American hegemony.

Despite the sneer at Europe and at norms of peace and cooperation still held by most Americans, Kagan's ultimate target lies "outside the laws of

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advanced civilized society" (p. 75). He agrees with British analyst Robert Cooper that "when we are operating in the jungle, we must also use the laws of the jungle" (p. 74). Kagan's most dangerous arguments pertain to the people in the jungle," that is, in former colonies. On the one hand, they appear almost without agency. In explaining the demise of Europe's empires, Kagan says nothing about Gandhi, Ho Chi Minh, or popular nationalism. The colonial collapse stemmed instead from the "failure of European strategy and diplomacy" and from Europeans' "inability to project sufficient force overseas" (p. 16). On the other hand, those outside "advanced civilized society" appear as super-powerful others, able to "overrun, spiritually as well as physically," Europe's "paradise" (p. 73). Described as "brilliant" on its jacket, this book is an apologia, based on a narrow view of power and a questionable knowledge of history, for a unilateral war on purportedly evil terrorists.

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Ethnic Identity Groups and U.S. Foreign Policy *edited by Thomas Ambrosio. Westport, CT, Praeger, 2002. 240 pp. Cloth, $67.95; paper, $27.95.*

The title of this volume of collected essays states its theme: ethnic identity groups increasingly seek to influence foreign policy. With the exception of Cuban Americans and Irish Americans, the expected groups—African Americans (Fran Scott and Abdullah Osman), Serbian Americans (Rachel Paul), Latinos (Michael Jones-Correa), Asian Americans (Paul Watanabe), and Jewish Americans and Armenian Americans (Thomas Ambrosio, Yossi Shain, and Tamara Cofman Wittes)—are represented in a series of case studies illustrating their attempts to intervene in support of their homeland or their fellow group members abroad. In addition, the dominant ethnic group is construed less conventionally as an identity group: Paul McCartney discusses the rhetoric of Anglo-Saxonism in which debates about American foreign policy were framed during the Spanish-American War, and Catherine V. Scott explains American support for apartheid during the early years of the Cold War in terms of "narratives of whiteness" (p. 47).

Bracketing the case studies are essays by the editor. In the introduction, Ambrosio discusses the factors—ranging from fluidity in the international system in the aftermath of the Cold War to a multicultural willingness to accept an ethnic minority's advocating on its own behalf—that enhance the opportunities for policy influence by identity groups. He then considers the multiple factors that predict group success in policy advocacy. These range from the number, cohesiveness, and distribution of group members to the extent to which a group's preferences are consistent with the direction of existing policy. In the conclusion, he raises the normative question of whether the burgeoning foreign policy activity of ethnic identity groups represents "legitimate influence or parochial capture" (p. 199).

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These are important concerns, but Ambrosio should have addressed in a similarly general way a couple of other themes implicit in the case studies. For example, it would be useful to have a summary of the various ways that the politics of ethnic identity impinge on foreign policy making. The image that emerges from the introduction is of interest group advocacy of a traditional sort in which groups monitor policy developments, raise issues, and inform and persuade relevant policy makers. However, the case studies suggest several other forms of intersection between identity politics and foreign relations. For example, Jones-Correa discusses the way that foreign candidates look to the diaspora community within the United States as a source of campaign donations. In one of the most interesting chapters of the book, Shain and Wittes demonstrate that diaspora communities may act as an independent force—not simply as another domestic constituency—in homeland conflict resolution.

Finally, as a student of international politics, Ambrosio overlooks an issue familiar to students of interest groups in domestic politics: the way that ethnic identities and interests in politics are defined and transformed through political and social processes. The case studies provide a rich lode of examples of the danger in imputing ethnic identity and, therefore, group interest. In the case of Serbian Americans, we see an example of the (partial) creation of ethnic identity and, for Asian Americans, the "transition from a collective Asian-American identity grounded in domestic experiences to separate Asian-American ethnic identities molded largely by transnational factors" (p. 136). And although Israel is salient to most Jewish Americans, they are hardly of one mind when it comes to policy toward a Palestinian state. Similarly, many groups show variation in identity and opinion between older and younger generations or between those born in the United States and those born abroad. In short, neither ethnic identities nor group interests in politics are fixed and knowable.

KAY LEHMAN SCHLOZMAN
Boston College

Detained: Immigration Laws and the Expanding I.N.S. Jail Complex *by Michael Welch. Philadelphia, Temple University Press, 2003. 250 pp.* Cloth, $59.50; paper, $18.95.

The United States was conceived and then expanded as a nation of immigrants, yet since the creation of an independent nation in 1787, the status of immigrants has often been a contentious and highly emotional policy issue. Whether the Alien and Sedition Act controversy of the 1790s; the formation of the Know Nothing movement and the American Party in the 1840s; the initiatives leading to the enactment of literacy tests, radical deportation, and ethnic quota provisions in the 1917, 1918, 1921, and 1924 immigration laws; the Palmer Raids of 1920; or the internment of Japanese alien residents and Japanese Americans in 1942, immigrants have periodically been perceived as threatening the nation's

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prosperity or internal security. In *Detained*, Michael Welch extends this assessment of the nation's immigration dilemma to the legislative and enforcement initiatives of the 1990s. Nonetheless, he affirms that the restrictionist responses of the 1990s were unique because they were triggered by "moral panic," which he characterizes as "a turbulent and exaggerated response to a putative social problem" (p. 8). Focusing first on the legislative history of three laws affecting immigrants enacted in 1996—the Illegal Immigration and Immigrant Responsibility Act, the Anti-Terrorism and Effective Death Penalty Act, and the Personal Responsibility and Work Opportunity Reconciliation Act—Welch contends that these legislative initiatives were "influenced less by sound policymaking and more by exaggerated political rhetoric . . . [and] the culmination of demagoguery emblematic of moral panic, especially considering that popular perceptions of immigrants were channeled through the distorted lens of racial and ethnic stereotypes" (p. 5). He then critically analyzes how the Immigration and Naturalization Service (INS) enforced these laws as shaped by a hard-line crime control policy "based on the three P's: penalties, police, and prisons" (p. 7).

Welch documents his major contentions by first carefully analyzing the rhetoric and documentation employed by proponents of immigration restriction to ensure the passage of the 1996 laws. He then recounts in detail the abusive and arbitrary practices employed by INS officials when enforcing these laws. His thoughtful review offers invaluable insights that extend our understanding of both recent immigration policy and criminal justice policy. The concluding chapter relates this recent history to the responses toward immigrants that were triggered by the traumatic terrorist bombing attack of September 11, 2001.

Yet, Welch's thesis of the uniqueness of the anti-immigrant responses of the 1990s—the byproduct of moral panic—reflects a limited understanding of earlier responses that were similarly emotional and demagogic: the enactment of the literacy test and radical deportation laws of 1917 and 1918, the ethnic quota laws of 1921 and 1924, and the McCarthy era enactment of the preventive detention and registration provisions of the 1950 McCarran Act and the radical exclusion and deportation provisions of the 1952 McCarran-Walters Act.

ATHAN THEOHARIS
Marquette University

Democracy's Constitution: Claiming the Privileges of American Citizenship *by John Denvir. Urbana and Chicago, University of Illinois Press, 2001. 145 pp. $24.95.*

This aptly titled book asks what principles *constitute* American democracy, structure its political and legal culture, and keep it vital. Professor John Denvir's provocative answer, which credits the Declaration of Independence as the

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central document in the American constitutional tradition, is inspired by Justice Louis Brandeis's claim that the appropriate end of the state is to free us to develop our faculties (p. 125). More specifically, Denvir contends that a fresh interpretation of the "privileges or immunities" clause of Section 1 of the Fourteenth Amendment could "give the Constitution a more democratic cast" that is more compatible with the basic moral premises of the Declaration (p.108).

Denvir considers the Fourteenth Amendment the primary text of a post-Civil War "second Constitution" meant to remedy the anti-democratic aspects of the "first" document (p. x). He understands the original intent of the amendment's Framers as twofold: first, to shift the locus of sovereignty from the states to the national government and, second, to accord federal protection to the political *and* social rights of individuals. According to Denvir's interpretation of Section 1, the due process clause concerns procedural regularity, and the equal protection clause treats discrimination, while the privileges or immunities clause is *substantive* and guarantees "perks" (p. 5) or "affirmative rights" to all citizens (p. 71). But the privileges or immunities clause was gutted by the Supreme Court's narrow interpretation in the *Slaughterhouse Cases* (1873). Denvir urges Americans to reclaim their privileges, that is, their fundamental rights of citizenship.

The heart of the book is spent defending the privileges to which Denvir thinks American citizens are entitled in the twenty-first century: the opportunity to earn a living, the right to a first-rate education, the right to a voice that is heard, and the right to a vote that counts. He also argues that the Court should apply the equal protection clause in a more evenhanded and substantive manner. Denvir's strategy is to reinterpret case law pertaining to each basic right in light of his reading of the privileges or immunities clause and to discuss the policy implications of each reinterpretation. He artfully initiates the kind of law–policy discussion he wants to foster among all citizens: The Constitution is, he declares, "too important to leave to the judges" (p. 32). He wants to democratize constitutional interpretation both by bringing it substantively into line with democratic principles *and* by democratizing the *process* of interpretation and debate.

This short book is a stimulating contribution to debates about whether constitutionalism and democracy are in tension or mutually supportive. But it leaves many unanswered questions. Is equality actually intrinsic to liberty, or do these values sometimes collide? Is participation by greater numbers always "more democratic" (p. 107) whatever the substantive outcome, as Denvir believes? And is positive liberty sometimes in tension with negative liberty? Denvir is quite persuasive that the Founders were interested in both positive *and* negative liberties, privileges *and* immunities. But he focuses exclusively on the privileges, arguing that today's circumstances require Americans to transform negative liberties into positive rights. He does not address the possibility of tensions between the two or suggest how we might reconceive the relationship.

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Finally, Denvir's reliance on the Framers' intent as a source of authority is somewhat hard to square with his emphasis on participatory democracy. Denvir frequently makes recourse to the intentions of the drafters of the Fourteenth Amendment to legitimate his argument for social rights as the fulfillment of the Framers' abstract ideals. But it is not clear why this second Constitution should remain authoritative in what could be a situation of potentially perpetual refounding via political deliberation and debate. Like the first Constitution, it could be viewed as a "provisional embodiment" (p. 4) of the principles of the Declaration, more or less flawed.

Despite these and other questions that specialists may have about the argument, it is presented in a welcome spirit of "constitutional hope" (p. 127). Denvir's broad strokes should stimulate discussion and appeal to a general audience. The book would also be very useful for advanced undergraduate and graduate seminars on law and society and democratic theory.

VERITY SMITH
Harvard University

Democrats/Republicans and the Politics of Women's Place *by Kira Sanbonmatsu. Ann Arbor, University of Michigan Press, 2002. 310 pp. $47.50.*

The dust jacket for Kira Sanbonmatsu's book shows the names of the political parties in large type and "the Politics of Women's Place" in small letters. That may be somewhat misleading. While this insightful book focuses on how U.S. political parties safeguard their electoral goals when dealing with hot-potato issues like the role of women in American society, it also provides a mass of information about the fate of women's issues.

Sanbonmatsu, an Ohio State University political scientist, uses interviews, surveys, and multiple content analyses to examine the political rationales behind party leaders' positions on women's issues. On the basis of an impressive amount of original data, she reports that, aside from reproductive rights issues, parties have been quite moderate and often in agreement on gender issues such as affirmative action, equal pay, family leave, and Title VII privileges. Evidently, party leaders do not want elections to turn on gender debates. The strategy of straddling most women's issues has kept them from causing realignments in party support, except for the polarizing abortion issue, which, as Sanbonmatsu insists, is sui generis. She argues strongly for disaggregating other gender issues as well and for examining the unique political patterns that have emerged for many.

The book is divided into three parts. The first part focuses on party leaders' reactions to feminist and antifeminist movements and to publics that are ambivalent about women's roles in the home, the workplace, and politics. In Part 2, the focus shifts to the frames that parties use in their platforms, in their efforts

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to build coalitions, and in the speeches of presidents and nominees for the presidency. To illustrate how these various factors come together, she devotes a whole chapter to a case study of the 1996 election. Part 3 is in many ways the most exciting part of the book. It explains the reasons for the parties' gender role strategies and puts the entire analysis into its larger context—contemporary American politics and theories of party realignment.

Within this larger context, the noteworthy findings are that, aside from abortion, most gender issues have been marginal to both parties' national agendas and to their electoral strategies. Although the Democratic party has been somewhat more sympathetic to feminist issues and has attracted support from organized feminist groups, activists have had to compete with other pressure groups for a place at the table of political rewards. Both parties have taken centrist positions during debates on women's issues, espousing both traditional and nontraditional roles to placate various constituencies.

Political elites have never framed women's issues in deeply arousing political terms that could produce party realignment. They often frame these issues in neutral terms like "protecting family values" or "moving people from welfare to work" to avoid arousing the strong feelings that tying them to women's roles may create. The parties become highly attuned to gender issues only when votes are at stake. That is why a reference to the gender gap in elections always gets their attention. Still, while electorates recognize that the parties differ on some gender-related political issues, these differences have had little impact on their vote.

Democrats/Republicans and the Politics of Women's Place is an unusual double-treat—an original study of party politics and a review of how issues created by women's changing roles in society have never quite made it to the top of the political agenda. Readers who care about the obstacles faced by social issues in the political marketplace should not miss this book. They will be richly rewarded.

DORIS A. GRABER
University of Illinois at Chicago

Place and Politics in Modern Italy *by John A. Agnew. Chicago, University of Chicago Press, 2002. 320 pp. Paper, $22.00.*

Since the 1980s the author has campaigned for a geography-oriented understanding of political identities and interests that would challenge abstracting, categorical, literally groundless alternatives in political science and sociology. This book brings together an introductory theoretical rationale for "mapping politics" with case studies from Italy for applying it. Two chapters are broadly thematic and historical on the symbolic, always problematic discourses of national identity since Italy's belated unification in 1870—one on the failed ideal of a generic Italian landscape; the other on the theme of the backwardness

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of Italy as modernization's alluringly wayward stepchild. The core of the book, six of ten chapters, is a loosely connected set of analytical narratives on Italian electoral politics from 1948 to 2001 that are factored to local, regional, and national horizons, contexts, and contingencies.

The theoretical agenda and the Italian setting are well suited to one another. By theoretical inclination, Agnew is a splitter with axes to grind against lumping theories of rational choice, multicultural difference, or shared political culture; he is a pluralist inclined to multiply causes and variables. One of his evident attractions to the notion of "place," apart from his geographer's occupational preference, is its fuzziness; it invites a "multiscalar" (p. 217) approach to political action in contrast to the nation-state paradigm and in keeping with the multiple environments where people develop and define their politics. In its physical extremes, divisive topographies, and complex historical and cultural geographies, Italy is a geographer's dream or nightmare; in any case, it serves as the perfect foil to ungrounded generalizations that pass for wisdom about Italy's modern political history and the trajectory of modern political development more generally.

There is a nice irony here. Geographical explanations are, after all, routine for Italy. Its serial failures to follow a Whiggish trajectory are even territorialized in the language: *paese*, the word for nation, colloquially means a particular town; *campanilismo* designates a chronic parochialism that views the world from some bell tower, or *campanile*. The split between North and South is a perennial theme with many variations, particularly on Italy's real and imagined deficiencies. The northeast was, until recently, predictably Catholic "White" and the center predictably Leftist "Red"; the regionally-based *Lega Nord* is a major political force and a refractory partner in the current governing majority.

Perhaps the book's most important new feature is the counter-intuitive insistence, theoretically emphatic and empirically concrete, that geography is a force for change and that the relations of people to the places where they work out political choices are dynamic and fungible. The stereotype of Italian political instability fares no better than the well-worn counterpart of political stagnation in Agnew's analysis of the shifts from regional to national and local patterns in elections from 1948 to 1987. Many supposedly entrenched features of the Italian political scene turn out to be arguably recent and fragile, including the Red Belt or the supposedly "civic" North in contrast with the "clientelist" South. A close analysis of political alignments in the neighboring provinces of White Lucca and Red Pistoia shows similarities and convergences over time that belie conventional political colorations. The historical roots claimed for the Northern League are inventions out of whole cloth.

It is one more sign of Italy's interest as a kind of political laboratory that the populist, right-of-center coalition of media magnate Silvio Berlusconi has held a ruling and practically unchallenged majority since the book's cutoff

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point in 2001. It remains to be seen whether the analysis Agnew offers will come to seem elegiac in the face of a virtual politics whose preferred places are national symbols, ideological obfuscation, and the airwaves.

RANDOLPH STARN
University of California, Berkeley

Islamist Mobilization in Turkey: A Study in Vernacular Politics *by Jenny B. White. Seattle, University of Washington Press, 2002. 304 pp. $35.00.*

Jenny White provides a remarkably timely and informed assessment of the grassroots political process in Turkey through an ethnographic study of Islamist mobilization in urban Istanbul since 1994. Taking a social anthropological approach to political mobilization, the author examines local networks in the working-class neighborhood of Ümraniye, arguing that localized networks are largely responsible for the increasing success of Islamist political actors throughout Turkey. The book challenges prominent scholarship on civil society, articulating a need to look beyond formal civic organizations to informal social bonds of trust and reciprocity in order to understand the essence of Turkish political activism. While focusing dominantly on Islamically oriented institutions, the book also includes a useful comparison of secular Kemalist local mobilization networks.

White argues that a defining feature of Islamist mobilization in Turkey is its foundation in "vernacular politics," a politics based on local networks of people united by common norms and feelings of mutual obligation. Within this framework, trust and reciprocity form the basis of social solidarity that can be rapidly mobilized for political purposes. In the case of Turkish Islamists, cultural expectations extend beyond class identification and link informal neighborhood networks to formal political institutions such as national parties. This is done through two distinct cultural norms: *imece*, an expectation of horizontal mutual support within a network, and *himaye*, protection offered through vertical patronage relationships. These norms are particularly relevant in the context of economic instability within a rapidly changing urban environment where they contribute to economic security. Islam provides a moral and rhetorical context that frames the social norms within which political choices are negotiated.

The book makes several notable contributions to the understanding of political process. Most importantly, it provides detailed accounts of how Islamist political parties have effectively tapped local social networks to mobilize on behalf of a political agenda. Through ties to Islamic foundations, service centers, and women's organizations, Islamic parties obtained meticulous information about individual needs to which they responded by providing in-kind welfare services. The book is particularly strong in its focus on women's mobilization, detailing the personal dilemmas female activists face within the Islamist

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normative framework. White effectively demonstrates the paradox created through the decision to veil: women receive increased educational, employment, and political opportunities in the Islamist movement coupled with considerable social restrictions on personal behavior. She likewise focuses on significant, but often overlooked, distinctions within the Islamist movement. These include divisions between lower classes and the emerging Islamist elite as well as significant differences between local and national positions within the Islamist parties.

The book provides a notable comparison between Islamist mobilization activities and secular political mobilization, which was much less successful at generating sustained political commitment. White finds, however, that despite the differences in mobilization outcome, the norms and process of vernacular politics were also present in secular activism. Although the author makes an extensive case for the importance of informal networks and personalistic ties throughout the book, it becomes clear through the comparison that these attributes are insufficient to account for successful mobilization. While she asserts that the secularists failed because they did not popularize their ideological message through acceptable cultural language, this conclusion is unsatisfactorily explained and tangential to the main themes of the book. The norms of horizontal and patronage support crucial in explaining Islamist mobilization are present in the broader political process as well. The reader is left to wonder about the significance of the author's primary claims in determining the effectiveness of mobilization. The context of economic instability and rapid urbanization is also emphasized throughout, but the author offers little theoretical explication of how economic and social change determine mobilization outcomes. Despite occasional theoretical lapses, the book makes a profound contribution to our understanding of a localized political process in value-laden contexts.

QUINN MECHAM
Stanford University

Ronald Reagan: The Power of Conviction and the Success of His Presidency *by Peter J. Wallison. Boulder, CO, Westview Press, 2003. 306 pp. $27.00.*

Reagan's War: The Epic Story of His Forty Year Struggle and Final Triumph Over Communism *by Peter Schweizer. New York, Doubleday, 2002. 340 pp. $26.00.*

Most books about Ronald Reagan fall into one of two categories. Critical works tell of a bumbler who would have done more harm if he had not been so sleepy. This literature says that the good news of the 1980s—a long economic boom and the fall of Soviet communism—happened despite Reagan, not because of him. By contrast, conservative authors and Reagan administration alumni generally describe an active president with clear aims.

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Neither category gives an accurate picture. Critics underrate his achievements, including his success in hastening the end of the Cold War. Supporters gloss over his faults, such as the "hands off" management style that led to the Iran–Contra scandal. And both sides tend to miss something crucial: Reagan was a coalition president. Though conservatives were starting to direct the GOP, he had to reckon with the Republican moderates and liberals who still held some power in the Senate. He also needed to build bipartisan coalitions, since Democrats ran the House. Reagan's detractors fail to see how skillfully he held his party together and dealt with the Democrats. His supporters forget how much he compromised, especially in domestic policy.

Peter J. Wallison falls into the latter category. Wallison, who served as Counsel to the President for a year during Reagan's second term, says that Reagan "achieved all his major and ambitious goals" (p. 6). There is less to that claim than meets the eye, since Reagan nimbly managed expectations. For example, before his presidency, Reagan had spoken of cutting the federal budget. In his first inaugural, he said that he wanted "to curb the size and influence of the Federal establishment." In his second inaugural, he proclaimed that his administration had begun to "reduce the increase in the cost and size of government." From "cut" to "curb" to "reduce the increase", Reagan gradually conceded the political difficulty of the radical changes that some conservatives had sought and that most liberals had feared. In constant dollars, nondefense spending grew 16 percent during the Reagan years.

Wallison says that Reagan "steadfastly resisted" pressure to raise taxes when deficits started swelling in 1982 (p. 47). Just thirteen pages later, he acknowledges that Reagan did yield to a "modest rollback" of the 1981 tax cuts (p. 60). Modest rollback indeed—the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 was the largest peacetime tax increase that the nation had yet seen. After TEFRA, says Wallison, Reagan was "virtually impervious" to further tax increases (p. 61). This assertion is incorrect. Late in 1982, Reagan signed a bill raising gasoline taxes by a nickel a gallon, and he would later agree to other tax hikes.

Wallison says that Reagan led, not by micromanaging, but by voicing powerful ideas that gave subordinates a sense of direction. This claim makes sense up to a point, but Wallison, himself, undercuts it by devoting a chapter to White House leaks and other acts of disloyalty. If Reagan got everyone to sing from the same song sheet, why were there so many discordant notes?

The most useful section of the book is a lengthy discussion of the Iran–Contra affair. With his firsthand knowledge, Wallison offers many details of how the administration handled the scandal. Even here, his judgments are open to debate. Wallison's immediate superior, White House Chief of Staff Donald Regan, comes across as an able executive who did his best to air the facts. But in words that appeared in Regan's obituaries in mid-2003, a presidential review board said in 1987 that Regan had "primary responsibility for the chaos that descended upon the White House when such disclosure did occur."

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Iran–Contra was just one episode in the spawling story of the Cold War. Peter Schweizer writes of Reagan's role in that conflict, starting with his fights against communists in the Screen Actors Guild during the 1940s and ending with the collapse of the Berlin Wall a year after he left the presidency. This panoramic view is helpful, as it shows that Reagan's presidential decisions were the product of thought and action spanning decades. Schweizer traces the Strategic Defense Initiative (SDI) to Reagan's pre-presidential visits to the Lawrence Livermore National Laboratory and the North American Aerospace Defense Command. (This account debunks the legend that Reagan based SDI on one of his old movies.)

Schweizer makes a strong case that Reagan had a comprehensive strategy to break the Soviet Union through military, economic, and political pressure. Scholars will disagree, however, on whether this strategy brought down the USSR or whether it happened to coincide with an historical inevitability.

Schweizer makes several provocative claims. He contends that during the 1976 presidential race, Jimmy Carter secretly asked retired diplomat Averell Harriman to assure Soviet leaders that he would be easy to deal with. He also asserts that the KGB had an agent close to the Carter campaign. Four years later, he says, Carter sent industrialist Armand Hammer to ask a favor of Soviet ambassador Anatoly Dobrynin: Could the Soviets possibly expand Jewish emigration so that Carter could win key states in his reelection race against Reagan?

Scholars with access to the primary sources should check out such assertions, which would be significant if they were proved true. There is reason for caution. Schweizer is making the case for Reagan and against his political foes, not offering a balanced study of his stewardship. Throughout the book, he downplays or omits details that would clash with his triumphalist theme. The Iran–Contra scandal gets barely a mention. Little is said about the quarrels between Secretary of State George Shultz and Secretary of Defense Caspar Weinberger. Liberal Republican Charles Percy, who sometimes broke ranks with Reagan as chair of the Senate Foreign Relations Committee, appears only once—in a passage from a Soviet intelligence report naming him as a potential target of influence. Someday, we should have a solid Reagan literature by writers without a stake in the political wars of the 1980s. Alas, that day has not yet come.

JOHN J. PITNEY, JR.
Claremont McKenna College

Elections and Voters in Britain *by David Denver. New York, Palgrave, 2003. 212 pp. $65.00.*

This book is the third edition of an established volume (albeit with a slightly amended title). The two previous versions of this text were market leaders. Students found them to be very useful, while instructors found the book to be an excellent aid to teaching. The style of the books was also a bonus; both

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were very readable. This new edition continues those traditions. The coverage within is extensive and relatively sophisticated while remaining highly readable. There is no better overview of British electoral behavior.

This volume, however, surpasses the previous editions. Much has changed in the study of British elections. The dealignment debates of the 1970s and 1980s are an increasingly distant memory, and for students now entering University, they must seem like the product of a distant age. While too many texts on British politics continue to focus on these concerns, David Denver's book has moved on. He continues to cover those debates to add historical context, but the latest edition reflects newer and more pertinent issues in British electoral behavior.

He begins by illustrating the ways in which elections are analyzed and makes the very valid point that studying elections can also be great fun. This first chapter provides an excellent springboard for the rest of the book since it also summarizes key theoretical positions in the study of voting. A chapter on turnout follows, analyzing variation over time as well as reasons for voting and abstention. The chapter concludes with a discussion of the how to remedy the turnout problem in Britain—one that has become increasingly significant in the last few years. Successive chapters cover social background and voting, partisanship, dealignment, issue voting, economic voting, and leadership effects, the latter topics reflecting the ways in which British psephology (the scientific study of elections) has developed in recent years. Chapters on the media, campaigning, and electoral geography follow before an excellent conclusion in which the author offers a series of explanations for the results of both the 1997 and 2001 general elections and tests various models by using survey data pertaining to the latter contest. This concluding chapter will be particularly useful for students in helping them isolate the key factors to explain the results of these elections.

In addition to the wide coverage, the author has made a conscious and commendable decision to include a discussion of many of the statistical techniques employed in psephology. Elections cannot be studied without reference to statistics. Students must learn how to understand numbers even at a basic level, and this volume goes a long way in demystifying statistical methods. He does this by explaining the different techniques employed with aggregate and individual level data, presenting tables and explaining them very clearly, assuming no real prior knowledge of statistical techniques. A glossary of terms is included at the end of the book to further assist student learning. These features, together with the author's lively and readable style, make this book useful to a wide audience. Undergraduates can use it as a key text, while postgraduates and instructors will find it to be an excellent overview and a guide to further reading and debates in British elections.

JUSTIN FISHER
Brunel University, UK

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Why Women Protest: Women's Movements in Chile *by Lisa Baldez. New York, Cambridge University Press, 2002. 240 pp. Cloth, $65.00; paper, $23.00.*

In this smart and well-written book, Lisa Baldez delivers what both parts of her title promise: an explanation of "why women protest" and an in-depth analysis of "women's movements in Chile." She both presents an original argument about the much-debated issue of women's political mobilization and uses the argument to work through central periods in Chilean women's activism that help to explain Chile's recent history.

Baldez's thesis is that women's moments of organized political unity on the basis of their gender identity, what she calls the "tipping point" of such mobilization, are due to two factors. The first is "timing", or the opportunities offered by partisan realignment among political opposition forces. The second is "framing", or women's assertion of their common exclusion from public life across partisan differences. This explanation draws on two central elements of social movement theory—political opportunity structures and framing processes—focusing them on a particular moment within the overall trajectory of movement development.

The main test of this argument is a comparison of two periods of women's protest in Chile: against the leftist government of Salvador Allende (1970–1973), who was overthrown by a coup marking the beginning of the thirteen-year-long dictatorship of General Augusto Pinochet, and against Pinochet's rule (1973–1990). This apt choice of cases allows for a comparison across political ideology, thus isolating the dynamics of female protest. The inclusion of a conservative movement places this work within a growing literature that seeks to explore women's movements in all their political diversity, beyond a focus on liberal or progressive sectors.

The book begins with a chapter outlining the theoretical framework. The second chapter, a historical overview, offers a suggestive exploration of the thesis through an examination of the conditions under which women organized prior to the 1970s. The two main sections of the book follow, presenting in three chapters each balanced assessments of the development and impact of the anti-Allende and anti-Pinochet movements. Baldez argues convincingly and in some detail, presenting several illustrations of failed moments of unity when conditions were not yet right before explaining the successes. To make her claims, she draws on qualitative sources including personal interviews with "female political entrepreneurs", newspapers from Chile and the United States, and secondary works. She also makes good use of a series of graphs, based on electoral data from presidential elections, to show women's support for conservative candidates over time. For historical reasons, men and women's votes are tallied separately in Chile, facilitating this type of analysis. Her engaging discussion of the key protest by the anti-Allende women, the March of the Empty Pots, is particularly noteworthy. It makes clear the considerable

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impact that this protest had on the general political struggles of the time and the different ways it was employed by male political leadership.

Baldez also provides insight into the struggles facing the women's movement in Chile's restored democracy. Although the preference women showed for Pinochet in the 1988 plebiscite ending the dictatorship resulted in parties' courting of the female vote in the 1989 elections, many women were disappointed in the parties' actions once in office. Continuing to stress the impact of partisan alignment on women's organizing, Baldez contends that the governing coalition has had political reasons to distance itself from a movement that is currently weighted to the Left.

The book concludes with an effort to support the central thesis through selected comparisons. Baldez briefly analyzes women's organizing and partisan realignment in Brazil in from 1979–1981 and in Russia and East Germany at the end of the 1980s. She finds partial support for her argument and offers suggestions to explain remaining differences. But the case for Chile has certainly been made.

ELISABETH JAY FRIEDMAN
Barnard College

Why Congressional Reforms Fail: Reelection and the House Committee System *by E. Scott Adler. Chicago, University of Chicago Press, 2002. 264 pp. Cloth, $55.00; paper, $19.00.*

Over the last two decades, students of Congress have spent a good deal of time and effort investigating the effects of rules and institutions on congressional outcomes. Much has been learned from these investigative endeavors, such as the role that information plays in legislative organization and the influence of party on member behavior and institutional choice. Yet, most of these studies have been static in nature, endeavoring to locate institutional regularities (or institutional equilibria) given an already established set of rules and institutions. Few studies have pursued the more dynamic inquiry of how and why institutional regularities (or equilibrium institutions) originate, develop, and maintain or perish over time. In the last half-dozen years, however, scholars such as Sarah Binder, Douglas Dion, and Eric Schickler have begun to tackle these more dynamic questions and, in doing so, have broadened and enriched the study of congressional institutions.

Scott Adler's book, *Why Congressional Reforms Fail: Reelection and the House Committee System*, falls within this dynamic framework. Adler sets out to answer the following question: Why have committee–jurisdictional reform efforts in the House failed in the post-World War II era? Stated another way, why has the basic structure of the House committee system remained largely intact over the past several decades in spite of several significant reform efforts? Adler's explanation takes a rational-choice flavor, while borrowing and ex-

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tending David Mayhew's basic "electoral connection" story. As argued, members of Congress (hereafter, MCs) are resistant to change, because they have adapted to the current institutional system. That is, MCs have learned how to serve the needs of their constituents through the presently-constituted standing committee system. From an MC's perspective, altering that system via a jurisdictional reformulation would introduce uncertainties into the representative–constituency relationship and thereby increase the likelihood of electoral defeat. Moreover, even if it could be shown that a given MC would *with certainty* benefit from an institutional change, MCs would likely oppose it, according to Adler, because they would have to incur the fixed costs of learning the new system within the very short two-year window of House tenure. In effect, a known imperfect system is preferable to an unknown more perfect system, which locks in the current institutional arrangement.

To support his argument, Adler first shows that standing committee membership is important to MCs. He does this by generating a demand-side theory of distributive politics, resuscitating a literature made famous by Kenneth Shepsle and Barry Weingast. His method of testing for demand-side effects is bottom-up rather than top-down, focusing on socioeconomic and descriptive measures of an MC's district rather than on an MC's roll-call voting behavior. Adler's next step is to demonstrate that committee membership is a valuable electoral tool, and he shows that a district's share of federal outlays increases if its elected MC holds a seat on a jurisdiction-relevant committee. Having established the necessary conditions for his electoral-connection argument, Adler then pursues three case studies of important reform efforts in recent decades: the Legislative Reorganization Act of 1946, the Bolling–Hansen reforms of 1973–1974, and the cross-party reforms of the early to mid-1990s. Unfortunately, as Adler admits, there is no variance across the cases, as each illustrates a failed reform effort. Nevertheless, the case studies themselves are carefully done and strongly support the electoral-connection story, with the latter two cases being especially persuasive. Adler's book is a strong addition to the growing literature on institutional change and development and will find a place in graduate congressional institutions courses for years to come.

JEFFERY A. JENKINS
Northwestern University

The Media and Neo-Populism: A Contemporary Comparative Analysis
edited by Gianpietro Mazzoleni, Julianne Stewart, and Bruce Horsfield. Westport, CT, Praeger Publishers, 2003. 254 pp. $67.00.

It is a truism that modern politics is in large part communication. Political leaders, parties, and movements ignore media power, press relations, and communication strategies at their peril. Therefore, many aspects of the media factor that the contributors to this edited volume explore with respect to neo-populism

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and neo-populist leaders are equally applicable to politics and political leaders in general. But given the paucity of scholarly research on the media's role in the recent surge of populist leaders, parties, and movements—particularly of the right-wing variety—this book is a much needed contribution to the understanding of a phenomenon that has challenged the entrenched institutions in a number of democracies.

Taken together, the eight case studies of neo-populist episodes in distinct settings offer instructive comparative, rather than simply cross-national, analyses, as Jay G. Blumler points out in his discerning foreword. This analytical structure is due primarily to the editors who established at the outset a rich theoretical framework with several assumptions as guide-posts for the case studies (described in the introductory chapter by Mazzoleni) and relate the findings to their stated objectives and conjectures in the concluding chapter (by Mazzoleni, Stewart, and Horsfield).

The chapter on Joerg Haider and the Austrian Freedom Party (by Fritz Plasser and Peter A. Ulram) is an exemplary examination of the media factor in the rise and decline cycles of Austrian right-wing neo-populism. By using media content analyses and survey data, the authors conclude that, in the Austrian case, the right-wing populist challengers of the ingrained party system profited "from the populist framing strategies of some mass media" (p. 36). While finding similar media-related features in many respects, the following cases point to particular attributes as well: In France, Jean-Marie Le Pen's extraordinary communication skills got him and his National Front a great deal of media attention. In Italy, Umberto Bossi's Northern League acquired its own print and broadcast media. In India, the Bharatiya Janata Party's ascent to power followed the "Hinduization of Indian culture through the media" (p. 97) that was greatly affected "by the serialization of the Hindu epics on television" (p. 115). In Australia, Pauline Hanson and her One Nation Party lacked a coherent communication strategy except for their attacks on the established media's alleged bias. In Canada, Preston Manning and his Reform Party became a factor because of the media attention they received, but their decline was also media related in that the news contributed to their image problem. In the United States, Ross Perot fit the neo-populist, but not the radical right-wing, mold of Le Pen, Haider, and others examined in this volume. To be sure, Perot's shrewd concentration on free infotainment (as guest on Larry King Live) and paid media (up to 30-minute TV ads) was the core of his attention-getting campaign strategy in the 1992 presidential race; it is less clear that the traditional press played a major role in Perot's demise, as Jonathan Laurence suggests. In Latin America, neo-populists find themselves in a different media landscape than the classical populists of the past. But, as Silvio Waisbord points out, "When popular culture rules supreme, all politics become necessarily populist, no matter what the talent and inclinations of specific politicians . . ." (p. 214). Yet, the case studies indicate that neo-populists depend even more on the media than do establishment politicians. More specifically,

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the fate of neo-populism is closely tied to media-related factors, foremost among them the news portrayal and the public's perception of the challenged political system, the degree of support for the status quo in media organizations, the prevalent media structures and the preponderance of "tabloidization" and "newsroom populism", and the quality of neo-populists' communication strategies.

BRIGITTE L. NACOS
Columbia University

Championing Child Care *by Sally S. Cohen. New York, Columbia University Press, 2001. 397 pp. Cloth, $52.50; paper, $26.00.*

Often described as a patchwork system, U.S. child care presents a complex and confusing face to scholars. In this meticulous study, Sally Cohen patiently untangles the threads of American child care policy making from 1970–2000 and seeks to explain the process through a variety of micro-level theories.

Cohen focuses on three major pieces of federal legislation. The first and most ambitious, the Comprehensive Child Development Act of 1971, which called for a universal system funded with sliding-scale parental payments, met with a presidential veto. The 1990 Child Care and Development Block Grant Act (CCDBG) and the child care provisions and funding embedded in the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA—the legislation authorizing Temporary Aid to Needy Families, or TANF) became law but were much more limited in scope; the first targeted low-income families, while the second was restricted to those leaving the welfare rolls.

During the period between legislative episodes, federal policy makers were hardly quiescent, but, as Cohen documents, their initiatives were frequently blocked by conservatives who opposed maternal labor force participation as well as governmental expansion into private life. Partisanship, however, cannot bear the full blame for these failures; ironically, it was divided, not unified, governments that ended up passing legislation. Cohen explains this with reference to "the symbolic meanings [the child care measures] brought to other issues" (p. 288) in 1990 with efforts to help low-income working families and in 1996 through welfare reform.

Cohen celebrates CCDBG as a major step toward building a national child care system and wants to distinguish it from PROWRA, since the first was aimed at low-income families while the second was linked to welfare reform. The two measures were, however, more similar than not: both rationalized federal support for child care on the basis of poverty reduction or prevention, and, it might be argued, the first paved the way for the second. Cohen's own analysis strongly suggests that poverty reduction may be the only rationale capable of mobilizing bipartisan support for child care, but this hardly offers a congenial platform for universal provisions in the future.

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Cohen digs deep into the policy-making process, examining, not just congressional debates, but also the composition and structure of committees, the jockeying among staff members, and the impact of lobbyists; her interviews with key behind-the-scenes players provide fascinating insights. Significantly, in recognition of the marked trend toward federalism, Cohen also provides "a view from the states" (chap. 8), detailing their efforts to organize, fund, and coordinate various child care and early childhood education initiatives amidst the thicket of federal rules and regulations.

Championing Child Care will undoubtedly stand as the definitive account of late twentieth-century federal child care policy making. Cohen's decision to restrict her theoretical analysis to the final chapter makes for slow going in the rest of the book, but it does allow readers to follow along as she tests various explanatory factors: growing female labor force participation, feminism and other organized interests, separation of powers, partisanship, and issue definition. She concludes that the growth in maternal employment was not in itself decisive in producing legislation; rather, given the political landscape, issue definition seems to have been key. Given continuing polarization between conservatives and liberals on social issues, Cohen is guardedly optimistic about the future of child care, presaging congressional successes on advocates' ability to "mesh their message with other policy priorities"(p. 305). Historical and comparative perspectives, which Cohen does not consider, also suggest the importance of path dependency, that is, the long trajectory of a residual welfare state in the United States which, barring unforeseen events, would seem to preclude expansion (much less universalization) of federal support for child care in the near future.

SONYA MICHEL
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Carl B. Stokes and the Rise of Black Political Power *by Leonard N. Moore. Champaign, University of Illinois Press, 2002. 242 pp. $34.95.*

Cleveland, once one of the nation's largest and most vibrant cities, began to feel the effects of deindustrialization in the late 1960s. As the jobs disappeared, the competition for the few remaining jobs and housing opportunities became intense. This competition took the recurrent form of racial and ethnic conflicts. The riot of 1966 was just one of the indicators of the uncertainty that caused residents to further segregate themselves into the racial enclaves of Cleveland. Into this socio-economic transformation came Carl Stokes.

A native Clevelander and true believer, Stokes entered the thicket of Cleveland politics first as a state assemblyman and then as its first black mayor. In the 1960s, being a black mayor was truly a political experiment. The questions were, could a black man reform the city's politics and would he be mayor of all the people, not just the black residents? Carl Stokes came into the mayoralty's

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two-year tenure with different expectations from white and black voters. In two years he had to convince whites that he could moderate the verbal excesses and activities of the local black militants and simultaneously improve the lot of black residents. Black voters saw his election as proof that "their time had come": finally they would be able to get city jobs, reform the police department, and improve their housing. Carl Stokes genuinely believed that his election represented an opportunity for real political change. He tried to make a difference, but for all of his good intentions and political skills, he never overcame the perception that he couldn't moderate the activities of local black militants or lead the city to a new economic future.

In Leonard Moore's account, the Stokes administration was one of political blunders, naiveté, and miscalculations. He oversold Cleveland Now!, his economic development plan, alienated the mostly white police department with his attempts to integrate its ranks, and restrained police efforts to contain local black militants. Even his highly publicized appointment of General Benjamin Davis, Jr. as the first black safety director turned out badly. He also underestimated the reactions of middle-class blacks to low-income housing in their neighborhoods.

In Moore's book, Carl Stokes comes across as a "Mr. Smith Goes to Washington" figure. As the first black mayor of a major American city, he became a national figure and the darling of the media; yet, in the final analysis, Carl Stokes underestimated the economic and social forces shaping Cleveland's future. Interestingly, the Moore account does not effectively deal with these contextual factors. Using the Stokes paper and interviews, he was able to expand on Stokes's autobiography, *Promises of Power*, and infuse this historic mayoralty with colorful characters and new insights.

In the last chapter, Moore tries to compare Stokes with his black counterparts in other cities. Here the book could have benefited from more reliance upon political science research. Moore's descriptive narrative makes it difficult for him to compare black mayors without a theoretical scheme. The political rhetoric among black mayors may sound the same, but the subsequent political dynamics were quite different.

Yet, there is much to be learned from reading Moore's account of the Stokes years. Moore weaves a compelling, demonstrative, and cogent story of good intentions and the limits of power. Carl Stokes would be the first black mayor to face the frustrations of trying to pull a city back together but not the last. Students of urban politics and history will find Moore's well-documented book a valuable addition to what we know about black mayors and modern urban politics.

WILBUR C. RICH
Wellesley College

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Presidents, the Presidency, and the Political Environment *by John H. Kessel. Washington, DC, Congressional Quarterly Books, 2001. 292 pp. Paper, $34.95.*

This excellent book reveals the experience and sophistication of the author. Two themes are loosely joined: how the presidency as an institution works in its political environment and the conditions for presidential policy success and failure. Kessel will be criticized by those who believe that presidents as individuals matter less than political and institutional factors. But this literature is often based on presidential legislative success scores. Kessel goes much further afield to show how presidential decisions, personal expertise, and commitment make a great difference in policy success. Policy failures are explained by a lack of expertise, absence of political support, and the selective priority that presidents give to some issues over others. His significant achievement is in showing that presidents have more successes than failures.

Kessel's depictions of the institutional presidency are based not only on knowledge of the literature but also on a large number of interviews that he conducted in the White House. He knows it from the inside. We learn a great deal about how different staffs in the White House work with the president, Congress, the media, the public, and the executive bureaucracy. There is considerable exploration about how presidents and their lieutenants make decisions under uncertainty. These descriptions and analyses cover foreign, economic, and domestic policy and depict the institutional resources at the command of the president. The inherent tension between policy expertise and politics is underlined throughout.

The chapter on samples of presidential accomplishments and failures, with mixed results included, focuses on the expertise and commitment of the president, himself. Kessel admits that this slights the role of advisers somewhat. But he is describing an institution in which one individual makes the final decisions. His broad sweep, which has great merit over more specific, focused, and measured studies, makes it clear that the individual president matters. What he lacks in precise measurement, he gains in breadth and perspective. Success and failure most often radiate out from the initial decisions that presidents make. Presidents play to their strengths; accordingly, Kessel believes that experienced politicians in the presidency are likely to be successful. Policy failures come from a lack of expertise, weak commitment, and pursuit of ideology and partisan politics over intelligence. Kessel contends that presidents too often ignore the importance of continuity of policy development over time by canceling the successes of their predecessors for partisan reasons, therefore often weakening their own presidencies. The general picture that presidents do succeed, but often fail, is a realistic view that releases us from the conception of a heroic presidency that should always win for the good of the country.

ERWIN C. HARGROVE
Vanderbilt University

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Faith in Politics *by A. James Reichley. Washington, DC, Brookings Institution Press, 2002. 429 pp. Cloth, $52.95; paper, $20.95.*

Religious Liberty in America: Political Safeguards *by Louis Fisher. Lawrence, University Press of Kansas, 2002. 208 pp. Cloth, $35.00; paper, $16.95.*

Robert A. Dahl, in his book on American democracy, has argued that the Supreme Court has become a most undemocratic institution. Through the decades, it has usurped legislative power on which there are only minor checks and balances. It has not hesitated to make social policy to which both the legislature and the populace are opposed because it has the power to do so. Recently, it has arrogated to itself the right to select the president of the United States in a close election, again because it presumed that it had the power to do so.

There are few aspects of American life about which it has legislated more than religion. In the name of no interference with the free exercise of religion or the nonestablishment of religion, it has in fact done both, constantly hedging in free exercise and establishing a bland, secularist religion. It is hard to find any justification for this blatant seizure of power, other than a quotation out of context of Jefferson's words about the "wall of separation", a metaphor which has become a constitutional principle and in turn a mantra. Neither in the history of the nation nor in the will of its people nor in the acts of Congress is there any justification for these activities of the Court; this legal theory came into existence only in cases such as *Everson* and *McCollum* in the 1940s. Subsequent decisions were aimed at aid to Catholic schools, but in their inherent logic if not in the intention of the judges they expanded to such controversies as school prayer and more recently the sacrificing of chickens in Sarasota, Florida. Finally, the Court slapped down Congress with a decision on its religious freedom act, saying in effect, "This is our business, not yours."

It is in the wall-of-separation context that one must read these two excellent books. A. James Reichley has organized what one might call a historical sketch of the development of constitutional thought on the relationship between church and state and the procrustean couch on which it has been stretched by Justice Black's opinion in the *McCollum* case. One need only reread segments of the mid-century rulings to see how dubious and arbitrary they were and how Justice Black's quote from Jefferson on church and state was torn out of context. Yet, it is no exaggeration to say that the quote has shaped the twisted and tangled history of first amendment law for the last half-century. As Justice Stanley Reed wrote in his dissent to *McCollum*, "A rule of law should not be drawn from a figure of speech."

Reichley, a fellow at the Public Policy Institute of Georgetown University, notes that despite the "incursions by civil humanism among cultural elites," Americans are still a religious people. Doubtless they are, yet the determination of law school ideologues to drive religion completely out of public life persists.

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In contrast, Louis Fisher of the Library of Congress argues that the rights of religious freedom are preserved and will continue to be preserved by the democratic legislative process. He rejects the notion that the Constitution is whatever the Court says it is. Legislatures finally determine religious liberties, not judges, he contends. *Brown v. Board of Education* was a major victory for African Americans, but the Civil Rights Act of 1964 was far more important. He traces the history of legislative or popular overrides of religious decisions over the years. Congress overrode the Court when it refused a Jewish officer permission to wear a yarmulke, but later reversed itself under public pressure when it tried to impose a compulsorily flag salute on the Amish.

Fisher is surely correct in his assertion that legislatures and public opinion do protect religious freedom, though often in spite of the Court. Yet, it is a difficult battle when elite media continue, despite Justice Reed, to insist that the high wall of separation is the essence of the Constitution. He persuades me that in the long-run the Court and the elite which feed it ideas will not drive religion out of American society, as it has driven prayer out of public schools. But the insistent rulings against public school prayer have no basis in historical practice or traditional court rulings. They are a raw exercise of legislative power by the Court—a blanket enforcement of a social policy with a strong anti-religious bias. The Court's interpretation of the "wall of separation" is nothing more than ideological dogma.

These two books, more moderate perhaps than this review, leave no doubt about the nature of the problem. However, the way to a solution remains difficult to see. The Court has established a thin, watered-down secular religion, and it will be difficult to disestablish that version. The Court interferes constantly in the free exercise of religion, and the American people will find it difficult to realize that free exercise.

ANDREW GREELEY
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The Civic Web: Online Politics and Democratic Values *edited by David M. Anderson and Michael Cornfield. Lanham, MD, Rowman & Littlefield Publishers, Inc., 2002. 232 pp. Cloth, $65.00; paper, $21.95.*

Scholarship about the Internet and American politics has grown rapidly in just a few years and is reflected now in more than a dozen books. For the most part, this literature is known for being normatively thin and empirically speculative, especially in works by authors with more expertise in technology than politics. In *The Civic Web: Online Politics and Democratic Values*, however, editors David Anderson and Michael Cornfield have produced a book

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rich in ideas and theory. They have assembled in one volume what is probably the most eminent group of observers yet to comment on this topic.

The essays cover most of the landscape. On campaigns, Trevor Potter and Kirk Jowers assess challenges to election law posed by the Internet. They discuss ways that existing law applies to the Internet and ways in which political Internet use is underregulated by Congress and the Federal Election Commission. In a related chapter, Peter Levine expresses doubt that the Internet serves the public interest in elections, not because the technological capacities to remedy problems are missing, but because of human motives and structural incentives.

The chapters on policy advocacy are complementary. David Anderson argues that the most significant consequences of new media are connected to broad civic participation rather than voting. Jerry Berman and Dierdre Mulligan expand on that thesis with brief synopses of several cases of online advocacy. They are enthusiastic about the possibilities for what they label "issue ad-hocracy"—a position with which many political scientists might disagree. For example, William Galston, in his excellent chapter, provides a strong counterpoint, seeing technology as no less likely to exacerbate than remedy problems with politics. Galston invokes the thesis that multiplication of single-interest groups and "unfettered individual choice" as a political norm comprise one of the most serious problems in American politics. For him, new technology threatens even further fragmentation and polarization of a public sphere that has been under stress for several generations.

Other essays deal with equality and citizenship. Anthony Wilhelm shifts the debate over digital divides from access to new concerns with uneven skills, motivation, and education. He adds depth to what is often a superficial topic, and he is dead-on when he writes that "having an Internet connection does not lead ineluctably to the navigation of the civic web any more than owning a car leads a citizen to the polling station on Election day" (p. 114). Michael Delli Carpini and Scott Keeter explore several provocative hypotheses about citizens' learning and knowledge. Their discussion of knowledge gaps, knowledge specialization and generalization, and the relationship between knowledge and action are a must for anyone thinking about the Internet and politics.

Other chapters by Deborah Johnson, Steven Clift, Langdon Winner, Michael Vlahos, and Michael Cornfield round out the book with discussions of ethical issues and the meanings of citizenship, participation, and democratic renewal. On the whole, the tone of the book is optimistic about new technology yet fully informed about challenges and problems.

In putting together these twelve chapters, the editors opted for brief essays rather than fewer, longer pieces that might present research in depth. This format makes for brisk reading and a broadly stimulating book. It succeeds well at presenting a survey of its subject and identifying for readers a variety

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of hypotheses and positions for further exploration. It would have been desirable to see much more from some of the authors, though this would have come at the expense of breadth. Still, the result is a success and easily one of the most useful books yet on the topic.

BRUCE BIMBER
University of California, Santa Barbara

Congress, the President, and the Federal Reserve: The Politics of American Monetary Policy-Making *by Irwin L. Morris. Ann Arbor, University of Michigan Press, 2002. 166 pp. Cloth, $45.00; paper, $22.95.*

Alan Greenspan, the current chairman of the U.S. Federal Reserve System, has become an American icon. When he arrives at Congress to deliver his biannual monetary report, he is treated by members of both parties with a reverence usually reserved for our most beloved religious figures, war heroes, or Hollywood celebrities. Intended as an occasion for congressional oversight, the sessions function more like a visit and lecture from on high. No president dare fire him for fear that the financial markets will go into a tailspin and thereby exercise an immediate veto over the president's choice. Bill Clinton discovered this early on when his advisors pointed out that the bond markets would veto an expansionary macroeconomic policy. Lest one think that Greenspan is unique, Paul Volcker, another banker's banker and Federal Reserve chairman during the 1980s, cast a similar spell and, like Greenspan, was ultimately protected by the implicit power of the financial markets.

Irwin L. Morris' discussion of the determinants of Federal Reserve policy, however, entirely leaves out the role of the financial markets in the making of monetary policy in the United States. As such, his book seems a bit like Shakespeare's *Hamlet* without the ghost. Instead, the author sees his main contribution as the implementation of a "multi-institutional theory of monetary policy-making" (p. 33). Morris' multi-institutional theory uses game theory to model the interactions between the president, Congress, and the Federal Reserve in the making of monetary policy. Professor Morris sees this approach as an advance on the mainstream economists's "principal-agent" approach to policy analysis. In the latter, the Federal Reserve is modeled as doing the bidding (as the agent) of one principal (for example, Congress *or* the president). The advantage of the multi-institutional approach, by contrast, is that it allows one to acknowledge that the Federal Reserve might be influenced by more than one interest group. Morris is, thus, able to analyze a three-way interaction, rather than just the two allowed by the principal-agent analysis.

Morris is certainly correct that expanding the scope of the analysis in this way is an improvement. It is true that the Federal Reserve must balance multiple pressures, and a focus on just one—or two for that matter—is unlikely

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to lead to an understanding of monetary policy. But the desire to formally model the process by using game theory and to keep the model relatively simple forces the author to limit his approach so severely—to just these three actors—that he is unable to gain much insight into the actual Federal Reserve.

For example, Morris discusses the relationship between the shifts in the monetary policy preferences of the Federal Reserve, Congress, and the president, on the one hand, and monetary policy, on the other. But when it comes to explaining these preferences, Morris has nothing much to say. He assumes that Republican presidents are staunchly conservative (that is, anti-inflationary) with respect to monetary policy and that Democratic presidents are "staunchly liberal" (p. 90). But there is a lot of evidence that Richard Nixon, obsessed with re-election, and Ronald Reagan, in the throes of his supply-side advisors, both tried to put enormous pressure on the Federal Reserve for expansionary policy at key times. By contrast, we have already discussed the peace that Bill Clinton made with the financial markets and conservative monetary policy.

Morris's analysis is rather forced in another respect. For the discussion to be an improvement on the principal/agent approach, the third leg of the tripod, Congress, has to actually have some real power with respect to monetary policy. In his empirical work, Morris emphasizes the preferences of Congress. But, as the descriptions of Volcker's and Greenspan's relationship with Congress suggest, the U.S. Congress, with a few exceptions (Texas Congressman Wright Patman, being one), has abdicated its constitutional responsibility to oversee monetary policy. Morris' correlation between congressional preferences and monetary policy is most likely to be coincidental rather than causative. It reflects a general move to the right in political preferences in the 1980s and 1990s and the increasing political power of financial markets, rather than congressional influence on monetary policy.

GERALD EPSTEIN
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The Rise of the States: Evolution of American State Government *by Jon C. Teaford. Baltimore, Johns Hopkins University Press, 2002. 272 pp. Cloth, $55.00; paper, $21.50.*

What is unique about Jon C. Teaford's history of the growing role and governing capacities of American state governments is its point of view. States are at the center of this book. They are not viewed, as is typical, from the perspective of shifting ideas regarding the latest form of new federalism. States are governments in their own right, the author seems to suggest, and should not be viewed as more or less imperfect agents of the federal government. That is not to say that Teaford does not see the states in the context of federalism. From his state-centered perspective, however, the expanding functions and

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capabilities of state governments have more to do with the incapacities of local governments and the inactions of the federal government than to the growth of federal grants-in-aid or explicit national efforts to devolve responsibilities to the states.

Teaford's historical narrative is impressive in its scope. He covers the major changes in state governments from 1890 to 1990. He emphasizes patterns that cut across most of the states and draws examples from nearly all of them. He finds that state governments have been responsive to changing citizen demands for new public functions. The book contains excellent discussions on states' responses to demands created by the automobile for highways and parks, on their assumption of the costs of public education during the Great Depression, and on states' greatly expanded efforts after World War II to increase access to higher education.

Yet, most of the book focuses not on the new functions themselves, but on how states changed the ways they performed those functions. Legislatures were professionalized, governors were strengthened, budget processes became more sensible, administrative systems were centralized and rationalized, state judiciaries became more autonomous, and state tax systems were better enforced and more capable of raising adequate and stable revenues. Teaford also documents the growing tendency of states to adopt uniform laws, spread innovations, and coordinate in other ways, either through informal communications among increasingly professionalized staff or through conferences and associations of state public officials.

Teaford's basic argument is that state capacity has grown with its functions, and these functions have gravitated to state governments because local governments have been corrupt, less able than states to find adequate sources of revenue, and generally less capable of managing tasks in a professional manner. Meanwhile, the federal government has been stymied by a chronic, widespread, and largely ideological distrust of a large, permanent federal role in domestic affairs.

There is truth in this argument, but it is not the strength of the book. Teaford's argument does not address large, cumulative variations in state governing capacities; yet, they surely exist. His discussion also leaves out factors that have clearly shaped the place of the states in the union. There is, for example, virtually no discussion of race and its impact on the role and governing capacity of states. He only begins to explore some of the interesting tensions and empirical relationships between competing conceptions of governance, such as government professionalism, on the one hand, and greater and unmediated responsiveness to public demands, on the other. Finally, Teaford emphasizes widespread ideological distrust of federal centralization as a factor favoring state power, but deep political divisions at the national level over what to do on particular issues have also contributed to the growing role of states—a dynamic that may augur even greater devolution in the future. Still, this is a rich, readable, and well-documented source of information on the changing

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roles and capacities of the states and a needed check on the typically top-down and often ahistorical perspectives in the existing literature on state governance.

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Reclaiming Public Housing: A Half Century of Struggle in Three Public Neighborhoods *by Lawrence J. Vale. Cambridge, Harvard University Press, 2002. 468 pp. $39.95.*

Public housing for low-income families has been portrayed in negative images since the 1950s, not long after federal monies were first appropriated for its construction. Deteriorating physical plants, as well as reputed problems of the tenants, eventually undermined political support with devastating consequences. Buildings over twenty-stories high were blown to rubble in St. Louis, and in Chicago, low-income tenants were replaced by workers with better wages. High-rise buildings with large concentrations of very poor people were stigmatized to such a degree that, in the last ten years, new federal legislation (the HOPE VI program) has paid for demolishing the projects or renovating them and reducing the number of units for the poor.

In this controversial historical context, Lawrence J. Vale has provided a book that is remarkably comprehensive and clear-headed. The core of his original research is an ethnography of three public housing projects in Boston traced from maps, photos, old archives, and recent interviews of tenants, public officials, and businesspeople. Based on exhaustive data on decades of struggle, Vale's study finds two of the projects to be success stories and one, a mixed outcome, and he offers a realistic discussion of his criteria for success. Because the Boston projects were built from 1949–1954 in order to upgrade neighborhoods of the white working class and to house veterans after World War II and were reconstructed mostly in the 1980s, they are an early and long-range example of public housing. The three projects contained 2,124 units mostly in three-story walk-ups and were cut to 1,389 units after redevelopment. While the projects and their neighborhoods differed from each other, just as public housing varies nationwide, this half-century of experience and Vale's very careful documentation make these Boston projects an instructive case to consider in assessing the nation's commitment to housing the very poor.

From a historical vantage point, Vale traces the problems of the projects principally to a weaknesses of design and long-term management as well as to a lack of a financial system to pay for maintaining the buildings and creating a social-service infrastructure. While recognizing problems that were internal to the projects, Vale does not overlook characteristics of the private sector and factors that lay outside the projects themselves. He mentions, for example, that the requisite skills for managing successful projects are extraordinary and

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scarce in both the public and private sectors, and he notes also that the real estate industry did not want public housing to pose a competitive threat. Most importantly, he points out that racism and barriers to jobs characterize society nationwide.

The public issue that animates Vale's work is whether public housing today can be reclaimed for extremely low-income families. He ends up supporting the current majority view that large projects with high concentrations of very needy families present a political liability. Vale concludes, however, that deconcentrating the poor in public housing "should not be used as an excuse to backtrack from a commitment to provide housing units that are affordable to low-income families" (p. 410). He warns that it is not enough to convert the projects to mixed income housing without also increasing the public commitment to diverse methods of housing the poor, including vouchers for rentals in private buildings, single room occupancy units, and homeless shelters.

The overall effect of Vale's work is to turn the image of public housing from an exaggerated nightmare about the past into a balanced, calm, and forward-looking view of the need for public housing for the very poor and the continuing necessity for government to take a major role. Vale is keenly aware that public housing needs a solid base of community support. This very readable book at once lends support to deinstitutionalizing public housing projects where necessary and to authorizing new public funds for alternatives that are more acceptable to spokespersons in the public and private sectors.

DONNA KIRCHHEIMER
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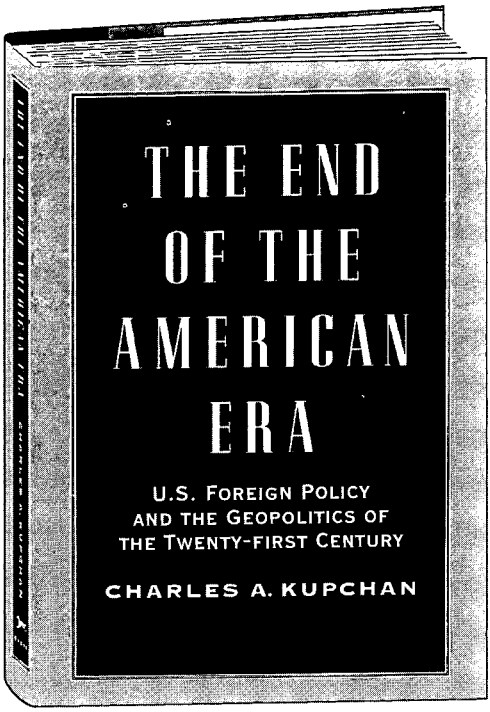

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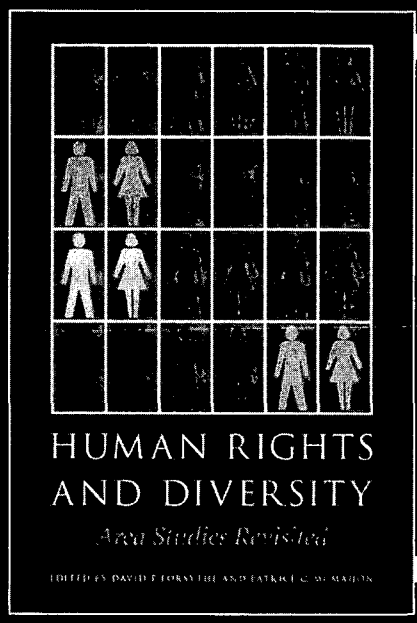

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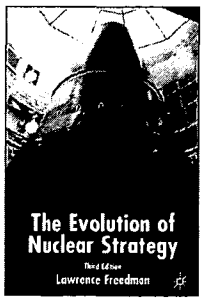

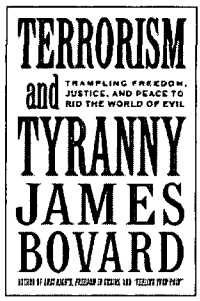

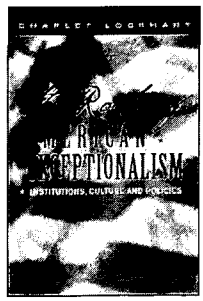

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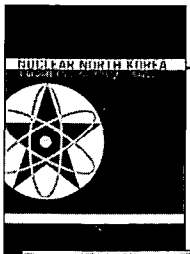

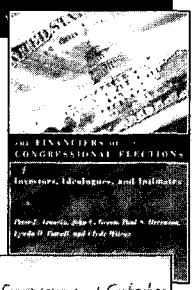

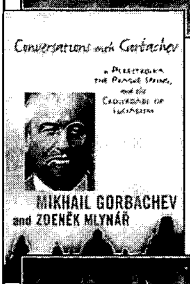

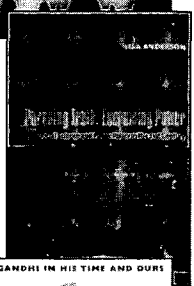

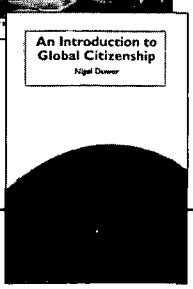

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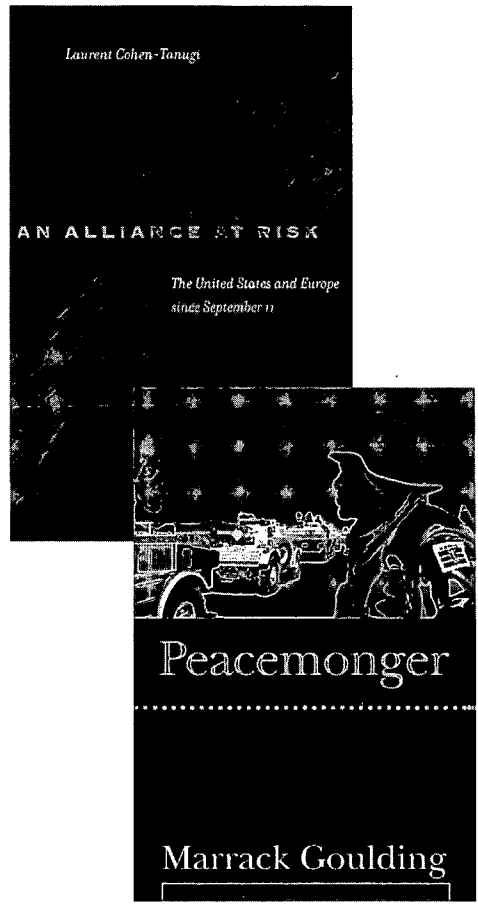

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